

Negotiated Rulemaking – Comment Summary
Docket No. 16-0417-1601

W = Written Comment Submitted	Rule (16.04.17.-)	Comments	Responses	Policy Change
W		Our agency is satisfied with the changes being made to IDAPA 16.04.17 Rules governing residential habilitation agencies. Our questions were adequately answered at the negotiated rulemaking meeting on May 6. Thank you for all you hard work put in to updating and revising the requirements.		
W		SUBMITTER is pleased to submit public comment on 16.04.17 - RULES GOVERNING RESIDENTIAL HABILITATION AGENCIES SUBMITTER applauds the Department for the implementation of rules that establish standards and requirements for residential habilitation agencies providing supported living services to adults with developmental disabilities living in their own home. The recognition of this practice and implementation of these rules as safeguards will protect individuals from undue financial liability allowing more freedom of choice and control.		
W		A group from IACP met with Medicaid Program Integrity Unit earlier this week. In reviewing these rules there are many items which could be linked to payment and become a risk for providers. This should be considered as these rules provide more specific requirements on providers within Residential Habilitation Supported Living.		
W	001.02 Scope	What is meant by controlled residence?	Removed “or controlled” and included “leased or rented”.	
W W W	001.02	<ol style="list-style-type: none"> 1. Why remove the words with Developmental Disabilities? I could understand perhaps changing it to Intellectual Disabilities but to qualify for these services they must have that diagnosis. 2. The phrase health and safety need to be defined. I would suggest using the one that is being developed in response to the 9th Circuit directing the department to define. 3. I would suggest rewriting the removing the language that “in their own home that is not a provider owned or controlled residence” and replace it with something 	<ol style="list-style-type: none"> 1. Changes here were to open up to different payers and populations (as are already being served but not under our purview (or anyone else’s) to certify. 2. Need to gather more information as to what is being developed 3. Removed “or controlled” and added “leased or rented” under 	

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		along the lines of “in their own home”. RATIONALE: Health and safety is a huge priority as is independence and autonomy. Handicapped accessible housing simply does not exist in the community. Bathrooms are too small for adaptive equipment to fit in. The department is not willing to pay for tubs to be taken out and shower stall to be installed in rental housing;. Hallways are too narrow for power chairs, stairs leading into and out of the houses are difficult to navigate etc. There will come a time when the department acknowledges this issues and asked for the provider industry to help resolve it. The assurance that a house is controlled by the participant could still be met even if it was provider owned by having arm’s length transaction including signed leases etc. CMS has approved these types of arrangements with RALF etc. Don’t tie your hands by being so explicit about this in rule.	Supported Living definition. These types of accommodations are addressed in the Certified Family Homes, ICF/ID and RALF settings.	
W	001.02	Why remove the words with Developmental Disabilities? To qualify for these services they must have that diagnosis.	Changes here were to open up to different payers and populations (as are already being served but not under our purview (or anyone else’s) to certify.	
W W	001.02	Prior Authorization. 001.02-This rule requires that the services must be a prior authorized by the paying entity. Therefore, if the paying authority is blue cross of Idaho, blue cross must prior authorize services. However, blue cross of Idaho may not have any prior authorization processes to pay for its as required in this rule. Accordingly, if there is no prior authorization, the provider not compliant. This rule grants the Idaho IDHW much greater enforcement authority over other payers outside of its current purview. IDHW should not look to meddle in the operational processes of other paying entities. Especially, considering how much health and welfare complains about its current workload. As a rule, whether intentionally or not, expand the reach of health and welfare.	Changed wording in scope to read “must be authorized in accordance to procedures of the paying entity.	
W	002. Written	While there is no document called interpretive guidelines,	These rules are specific to Licensing &	

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W W	Interpretations	there are documents such as ISP Manuals, Info releases, provider agreements and provider handbook. All of which should be put into rule and passed by the legislature rather than imposing on the provider industry via these backdoor documents.	Certification (L&C) and not intended to address payer specific requirements.	
W	002.	Written Interpretations Comment – I would recommend to have written interpretations which could be derived from other documents which are currently referred to, such as information releases.	These rules are specific to Licensing & Certification (L&C) and not intended to address payer specific requirements.	
W W	010.03 Advocates	Developmental Disabilities. 010.03-There are other services that are residential in nature. This rule, on the one hand, indicates that this service is for residential habilitation supported living services, but on the other hand it states that is for adults with “disabilities”. Residential habilitation is very much designed for individuals with “developmental disabilities”. This rule should only enforce standards for those individuals meet developmental disability eligibility criteria.	Residential Habilitation Supported Living is also in IDAPA 16.03.10.326.15.a which addresses Aged & Disabled Services.	
W W W	010.05 Appeal (removing this rule)	Again why get rid of the term developmental disabilities? That is who is eligible for this program.	This definition was removed as the definition refers to the provision or termination of services. Licensing and Certification is independent of authorization and approval of services. The appeal was specific to the Medicaid process therefore removed.	
W	010.11 Department	Medicaid Rules define Department as: “The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department.”	Added “The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department.”	
W W	010.15 Functional Assessment	This rule adds many more requirements to the functional assessment. The functional assessment is already completed as part of the annual redetermination process by way of the SIB-R. According to 16.03.10.503.01.b, the SIB-R is the functional assessment. IDHW must not add new assessments or enhance the requirements of them without funding. The functional assessment required now that most providers complete is much simpler (but still isn’t paid for). The functional assessment used by IDHW or its	In IDAPA 16.04.17.400.02.i there is currently a requirement for an age appropriate functional assessment, but no definition. Per L&C’s scope the provision of these rules are to regulate agencies so services to participants will optimize independence and self-determination while assuring adequate services. The SIBR utilized by Medicaid is	

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		designee should meet the standard of compliance or providers should be reimbursed for it as it is not “built into the rate” of reshab services.	used only for Developmental Disability eligibility purposes. The information given to the agencies does not provide for adequate service development. A full functional assessment provides for skill acquisition in all service elements in the proposed definition. Payment for services is determined by the paying entity.	
W	010.15	The current proposal for adding a narrative to the functional assessment will be increasing substantial the time to complete without any funding. This is not built into the rate.	In IDAPA 16.04.17.400.02.i there is currently a requirement for an age appropriate functional assessment, but no definition. Per L&C’s scope the provision of these rules are to regulate agencies so services to participants will optimize independence and self-determination while assuring adequate services. The SIBR utilized by Medicaid is used only for Developmental Disability eligibility purposes. The information given to the agencies does not provide for adequate service development. A full functional assessment provides for skill acquisition in all service elements in the proposed definition. Payment for services is determined by the paying entity.	
W	010.15	This definition needs further clarification. Is it comparable to a Comprehensive Functional Assessment done in the ICFs/IID industry, is it a formal “published” assessment, does it include specific elements, etc.?	The functional assessment could be developed by the agency or a published assessment that addresses all skill areas defined in the proposed rule 16.04.17.300.04.	

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W W	010.18 Guardian	This rule strictly indicates that the guardian (including participants who are their own guardians) are responsible for the care of the participants, among other things. That means guardians (and participants who are their own guardian) are responsible if something bad occurs that is of their choice (e.g. refusing, eloping). If they choose to be out of care, they are responsible for their care. There is too much one-sided emphasis on the providers when a majority of problems are self-directed consequences of participant/guardian choice.	This was a rule clarification only. The definition has been changed to “A legally-appointed person who has decision making responsible for care and property of another,…”	
W W	010.19 Habilitation Services	This rule references the participant living “as independent as possible”. There are limitations to participants’ abilities and their maladaptive choices affect this. Providers should not be expected to safeguard every aspect of their lives.	This section was copied from IDAPA 16.03.10 as it relates to L&C rules. This is not a new rule.	
W	010.19	My Thought: If we are to help retain skills then I feel that making progress on PIPs should not be evaluated so heavily. Ex: John has a PIP for brushing his teeth. He has to work on this formally because if not he will not brush his teeth, which leads to cavities, bad oral hygiene and other health conditions. We have a couple of participants on a 2yr level and don’t necessarily progress but we retain the skills they have. Suggestion: Allow a statement on the status review to say why he needs to continue with the PIP even though there was no progress or there was regression	This comment appears to address progress versus the definition of services. This comment will be addressed	
W W	010.20 Immediate Jeopardy	This is an institutional term that implies that we have ultimate responsibility even when the situation that is “likely to cause serious injury, harm, and impairments” is a result of informed decisions that the participant chooses to do. I would suggest removing this term from the rule entirely. If unwilling to remove than more specific definition needs to be written.	Immediate Jeopardy is currently in the rule under the enforcement process 16.04.17.501.03 but no definition.	

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W	010.20	This term is used in ICF and implies that the provider has ultimate responsibility even when a participant chooses to engage in an activity that could cause serious injury, harm, or impairments even though he or she was informed of such risks. Where does client choice end and ultimate provider responsibility begin? Please remove from rule, or define further.	Immediate Jeopardy is currently in the rule under the enforcement process 16.04.17.501.03 but no definition.	
W	010.20	Rules?	Immediate Jeopardy is currently in the rule under the enforcement process 16.04.17.501.03 but no definition.	
W W.	010.20	This rule is highly dangerous because of its speculative nature. A participant getting out of bed is likely to cause serious injury, harm, impairment, or death. Divisions of IDHW have proven inconsistent in evaluating the entire context of occurrences and participants', guardians', and providers' role. Unfortunately, this rule further arms IDHW to blame providers and disregard other factors. It needs to include the process and not the conclusion. For example, it is simple to armchair quarterback an event with the benefit of the consequence and hindsight. There are myriad factors that contributed. Technically, this rule says that it is a situation caused by the provider's non-compliance. Accordingly, if the provider can demonstrate even some fault of others (TSC, participant, guardian, other provider, care manager, etc.), it nullifies this rule. It will be nearly impossible to prove that everything was the fault of the provider	Immediate Jeopardy is currently in the rule under the enforcement process 16.04.17.501.03 but no definition.	
W W	010.20	I request that this rule be more concrete because of the highly dangerous speculative nature. Just need a clearer definition	Immediate Jeopardy is currently in the rule under the enforcement process 16.04.17.501.03 but no definition. See above	
W	011.07 Physician	Definition doesn't match Medicaid's practitioner of healing arts	This is not a new definition please see Title 54, Chapter 18, Idaho Code. Definition 1803.	
W	011.08 Person Centered	Under the definition section the SUBMITTER would like to understand the reasoning of the elimination of the definition	This is a Medicaid terminology and process for plan development. L&C does not	

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	Planning Team (removing this rule)	of “Person-Centered Planning process and Person-Centered Team”. There appears to be no mention in the rules that the Supported Living agency must be involved in the person centered planning process. As a Supported Living Agency it would be assumed there is no requirement on their part, if invited by the participant, to participate. Due to the agency responsibility of 24 hour support the SUBMITTER believes representation of the supported living agency is crucial to the discussions within the person centered planning process. While ultimately the decision to have the Supported Living Agency representative present in the person centered planning is that of the participant or guardian, it is unlikely the person centered planning team would not require the involvement of that representative due to the significant amount of support being provided by the agency.	develop and authorize the plan. The removal of these definitions does not affect the Medicaid rule requirements.	
W W	011.08 Plan of Service	There are countless problems with the plan of service written by someone other than a reshab provider about its services. These realities need to be accounted for in rule or by a change of process. For example, the reshab provider should be able to write its portion of the plan to assure consistency and there must be an addendum process where IDHW will correct mistakes or allow for progress in the plan’s content. IDHW should not punish a reshab provider for something they don’t develop and cant’ modify.	L&C removed the every 365 days only. The plan process is a Medicaid requirement and must be addressed through Medicaid.	
W	011.10 Progress Notes	Currently we do timesheets, billing sheets, communication logs, activity logs, and PIPs.... Are you seeking the specific time programs are run? Billing and timesheets designate which staff on which days and which times. In the past data for RH/SL has been recorded under dates since the billing occurs daily and not in 15 minute blocks.	The intent of the changes to this definition was to remove Medicaid terminology only.	
W W	011.10	A progress note should not be expected to be a narrative. This has been an issue between providers and IDHW for years. Providers’ means to demonstrate progress should suffice. Also, this rule should be reconciled against the procedural requirements in 16.04.17.702.02.a. Having one set of rule requiring one thing and another requiring	The intent of the changes to this definition was to remove Medicaid terminology only.	

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		something else is unreasonable. All definitions in reshab rules sets must match.		
W	011.10	A narrative progress note would be difficult because of providing 24 hour services and because the staff are paraprofessionals and do not always have the best writing skills.	The intent of the changes to this definition was to remove Medicaid terminology only.	
W W	011.11 Professional	<p>This definition mentions “skills training”. Skills training according to 16.03.10 and the provider handbook only include very basic training concepts. Accordingly, IDHW must accept that a provider might have other categories trained by someone other than a professional. The rule indicates that the professional may be a PC or QIDP and later states that the individual must meet the qualifications of section 202 of rule. Section 202 of rule indicates that the professional must have human service degree. This is more-strict than the CFR on QIDPs and limits the professionals who can function in this capacity. In review of the CFR, there are other means by which an individual can become a QIDP that must be still allowed in these rules. There are individuals working as QIDPs who don’t have human service degrees, but qualify by the CFR.</p> <p>*** Per the conversation, I was hoping to see the rules relaxed. Kim, one of our Q's, just made it with her courses, but does not have a human services degree.</p>	Discussion with Medicaid needs to occur.	
W W W	011.12 Provider Status Review	Remove the last phrase “and includes why the participant continues to need services.” By definition, the individuals we serve will most likely continue to needs services for the rest of their lives. Public Law 95-602 defines a developmental disability as, “a disability attributable to a mental or physical impairment, manifested before age 22 years, likely to continue indefinitely, resulting in substantial limitation in three or more specified areas of functioning and requiring specific and lifelong extended care. ”. Trying to find a different way of saying this on a monthly basis adds no value to the program. The individuals we serve are assessed by an independent	Per recommendation this will be removed “and includes why the participant continues to need services”	

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		assessor annually. That is where the justification needs to occur, annually, not monthly.		
W	011.12	Define or remove the last phrase “and includes why the participant continues to need services.” Is this just a statement that recommends continuing a goal until it is achieved? The services are likely to continue indefinitely unless there is suddenly a cure.	Per recommendation this will be removed “and includes why the participant continues to need services”	
W	011.12	Adding “includes why the participant continues to need services” is redundant to the eligibility process as well as within the definition of developmental disability. For the professional personnel to address this each time progress is discussed is a waste of time and resources. I recommend removing this part of the requirement.	Per recommendation this will be removed “and includes why the participant continues to need services”	
W W	011.12	The definition of the provider status review does not match the definition of 16.03.10.508.15. Adding other requirements to the same process promulgated in different rules is unreasonable. Definitions must match.	Per recommendation this will be removed “and includes why the participant continues to need services” See above	
W	011.12	The plan of service is determined by the ISP plan so it is not always the agency’s sole decision to determine to continue or discontinue this service. The team decides what the participant needs through their planning process. This should be determined as needed unless the team determines it is no longer needed.	Per recommendation this will be removed “and includes why the participant continues to need services”	
W	011.13 Provisional Certificate	DDA should not be in there	Corrected	
W W W W	011.13	This rule references the provisional certificate issue to a “DDA”. It should reflect reshab. This rule references the provisional certificate issue to a “DDA”. It should reflect reshab. Why is Residential Habilitation rule referencing “DDA”? I assume “a certificate issued by the Department to a DDA with deficiencies...” is a typo, as these rules do not govern DDA’s.	Corrected Corrected Corrected Corrected	

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W	011.15 Quarterly	<p>Doing quarterlies only by the calendar would mean that some quarterlies were done at times that make little sense and could defeat the purpose. For Example, if a plan started on March 15, we would have the first quarterly due by April, essentially 2 weeks after it started. Also, while the proposed rule does establish what a quarter is, it does not clearly define when quarterlies are actually required to be completed. Are they due during the quarter or following a quarter? Is there a specific date in a month when they should be done? And lastly, are we allowed to use the 6 month status review in place of a second quarter review as well?</p> <p>I recommend making a change to the proposed rule as follows: <u>For the purpose of these rules, a quarter is a three month period starting with the beginning date of the participant's plan, and following on a three-month schedule thereafter. Quarterlies must be completed by the 15th of the month immediately following the third month of a quarter, or three month period.</u></p> <p>I also believe the rule should include guidance as to whether or not the 6 month status review may be used for the 2nd quarter review, and what items should be included in a quarterly review.</p>	Per recommendation Quarterly is defined as every three months.	
W W	011.16 Residential Habilitation	<p>This rule disallows the use of independent contractors and is unusual considering that DDAs and TSC agencies are allowed to use them. There are significant costs associated with employees in terms of the Affordable Care Act and overtime. Many agencies' staff want more hours than can be allowed due to these costs. I have contacted Medicaid and L&C about reshab staff working as independent contractors or coming the agency by way of a staffing agency. This rule eliminates a mechanism that allows and an agency more flexibility in staffing. This is counterintuitive considering the IDHW tends to believe that staffing is a cure-all. Staffing costs need to be reduced by</p>	This is already in 16.03.10.705.01 rule and was added to 16.04.17 for continuity.	

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		any means possible and allowing for independent contracting is a simple method. We have used independent contractors for medical and psych evals, PT/OT/and SLP for years, as we are able to pay them their rate, and they are required to carry their own insurance, which is more cost effective for our services.	See above	
W	011.16	I would like to be able to utilize independent contractors.	More research will be done on this comment.	
W W	011.19 Services	The definition of “services” doesn’t match 16.03.10.508.22. All rules of the same definition must match. This draft rule greatly expands the purview of L&C only to any paid reshab service. This does not make sense that IDHW would want to meddle in the operations, processes, and oversight of other payers. Also, because of the emphasis on “payment”, it implies that a financial transaction must occur to trigger rule adherence. If services are not “paid”, IDHW does not have authority.	The definition was changed to ensure that all Residential Habilitation services independent of payment source meet L&C rule requirements.	
W	011.20 Skill Training Definition	Paid caregiver?	This is currently in 16.03.10.703.01.c and was moved to L&C for continuity.	
W	011.20	Change wording to: “To teach participants family members and/or alternative caregivers to carry out or reinforce habilitation training.” This would eliminate the complications of including the words “roommate” and “neighbor” while still allowing those same people if they were the appropriate alternative caregivers.	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	
W	011.20	As discussed in the Pocatello meeting, this needs to be re-written for clarity. On the surface this implies the agency needs to train neighbors just because they are neighbors. We train our staff, yes, but not the community.	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	
W W	011.20	The definition of skills training should be reconciled to the definitions in 16.03.10 and the provider handbook. Skills training is limited to the definitions of the requirements in those rules. Rule categories required for staff training do not reflect “skills training” namely but do require it to be	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	

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		trained by a QIDP. Training completed in other rule-required areas that is not technically “skills training” should be accepted as compliant, even in not trained by a QIDP. For some reason, IDHW has veered into assuming that all training on PIPs is “skills training” and must be done by a QIDP, but that is not technically accurate.		
W	011.20	Should this definition be there?	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	
W.	011.20	Skill Training-Ensure all members of the IDT, Direct Care Staff and any other natural support person have the understanding and training necessary to carry out or reinforce habilitation training as identified in the functional assessment and incorporated into formal training specific to one participant.	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	
W	011.20	Skills Training. The requirement to provide skills training to the participants’ general public in addition to providing for the participant seems far reaching. It has always been a part of the Person Centered Planning Process to involve informal supports for reinforcing training and modeling appropriate behaviors, but to teach them of the specifics of a participants’ needs seems a violation of their rights to privacy. Also, when would this training occur and who would do it? If the professionals were required, that makes their daunting list of responsibilities more daunting and can the direct care staff do it effectively?	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	
W W		This needs to be totally re-written. We do not teach participants family members, alternative family caregivers, or a participant’s roommate or neighbor to perform activities with greater-independence and to carry out or reinforce habilitation training. The people supporting folks in res. hab are employed by us and do not work with the individuals we support while in our care. Liability Issues arise that we are/may not be willing nor able to carry.	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	

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W		There are issues relating to teaching others to perform activities with greater independence, carry out and reinforce habilitation training. The first problem is confidentiality when sharing information with roommates or neighbors and possibly to sharing information non-guardian family members or alternate family caregivers. I am unclear as to whom or what is an “alternate family caregiver”. The second is there is no reimbursement for training non employed personnel. Third, the second half of the rule is confusing, starting with; “Services are focused on training and are not designed to provide substitute task performance..” I recommend discussing options with IACP as well as other providers/advocates to determine what skills training would encompass, how it would be completed as address other components connected with this topic.	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	
W		Skills training should only be required if it is part of the ISP and it has been determined that there is a substantial benefit to the participant. This becomes a very huge potential area of impacting HIPPA., when neighbors, friends and non-caregiving families are trained on sensitive area. Also it is a huge potential privacy issue and control issue if agencies are required to “teach” roommates to act in a care giver or staff role.	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	
W		This is confusing because we do not teach participants family members, alternative family caregivers, or a participant’s roommate or neighbor to perform activities with greater-independence and to carry out or reinforce habilitation training. I recommend removing it.	This rule will be changed to read “To train direct care staff to teach the participant how to perform activities...”	
W	011.21 Substantial Compliance	Should Health and Safety be defined?	Based on comments related to this definition and certification requirements this definition was revised and a definition for Core issues have been added.	
W W	011.21	This definition is poorly defined. The use of the word “would” projects potential in the definition. The roles of the participants, guardians, IDHW, other providers are completely ignored relative to the safety of the participant.	Based on comments related to this definition and certification requirements this definition was revised and a definition for Core issues have been added.	

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		As previously stated, getting out of bed poses risk to the participants. The definitions of “health, safety, or welfare” are not objectively defined. These terms need to have measurable meaning considering that certifications will be contingent upon them. The subjective, interpretive nature of these have caused and will continue to cause distress for providers.		
W	011.22 Supervision	Qualified professional working within their scope of practice.	This will be changed to “by the professional or designee. The designee will report directly to the professional.”	
W	011.22	Please add the term designee to this phrase. We have many long term staff that could and should be allowed to train/supervise newer staff under the direction of the degreed supervisor. This is done in nursing or physician orders all the time (delegation of assistance with medications). The more supervision and training that direct care staff receive, regardless of a degree or not, enhances program quality. In addition, it allows for a minor way for staff to move up the ladder as they enhance their skills.	This will be changed to “by the professional or designee. The designee will report directly to the professional.”	
W W W	011.22	Supervision. I believe that the term designee should be included in this phrase. We have many long term staff that could and should be allowed to train/supervise newer staff under the direction of the degreed supervisor. This is done in nursing or physician orders all the time (delegation of assistance with medications). The more supervision and training that direct care staff receive regardless of a degree or not enhances program quality. In addition, it allows for a minor way for staff to move up the ladder as they enhance their skills.	This will be changed to “by the professional or designee. The designee will report directly to the professional.”	
W	011.22	During the Boise Negotiated rulemaking meeting, it was discussed regarding other competent supervisory personnel meeting requirements of rule. I would suggest including language which establishes this clearly to minimize the workload required of the QIDP and/or Professional.	This will be changed to “by the professional or designee. The designee will report directly to the professional.”	
W W.	011.22	This definition does not define the measure for compliance for ongoing oversight. There must be a frequency to it to gauge a minimum standard otherwise it will be used against	This will be changed to “by the professional or designee. The designee will report directly to the professional.”	

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		a provider to show that they didn't ensure enough if something goes bad. Also, it is ineffective that provider supervision does not allow delegated tasks. 23.01.01.400 allows nurses to determine the scope of practice for tasks and delegate those responsibilities to others with a plan to monitor the delegated elements of the nursing care. It is odd that a more rigorous medical model such as nursing will allow a nurse to delegate elements of care to other and follow up on them, but reshaw doesn't. All of it has to be done by a "professional". I recommend that the decision-making model of the Board of Nursing be worked into reshaw rule in order to allow the professional to determine the scope of supervision, delegate portions, and follow up them, especially considering that IDHW is going to saddle them with more responsibilities by way of these rules.		
W	011.23 Supported Living	Supported Living. Recommend lining up with Idaho landlord/tenant law. CMS has brought this up before to BDDS.	Need clarification on this comment	
W	011.23	It is (hopefully!) just a simple clarification – in the proposed rules it looks like the provider cannot own the residence. Good Sam owns the units where our A&D waiver folks receive Supported Living Services – but I presume (will have to verify!) that they lease under a valid Idaho rental agreement. Does this passage mean that Good Sam would have to do something differently?	Given this information it appears as though this would meet RALF licensure requirements not Supported Living requirements.	
W	011.23	Could clarification be added for RH staff being prohibited from living in the home with the participant? We are seeing this more and more and this very situation would not fall under the RH provisions but CFH. It would make it more clear to participants, providers, and families. Is there a way to reference the CFH rule this applies to (16.03.19.110.08)?	We have added clarification in the scope that may help clarify. In addition, the Division of Medicaid may wish to address this in the 16.03.10 rules.	
W	011.23	I suggest adding that the agency is able to co-sign a lease in the interpretive guidelines as we discussed in the Boise Negotiated rulemaking meeting. Also at that meeting it was discussed removing the term personnel from being prohibited because there are situations where individuals	This goes against the intent of Res Hab Supported Living rules.	

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		within the community lease to program participants but do not work directly providing services (if I recall the conversation correctly).		
W W W	011.23	Health and safety is a huge priority as is independence and autonomy. Handicapped accessible housing simply does not exist in the community. Bathrooms are too small for adaptive equipment to fit in. The department is not willing to pay for tubs to be taken out and shower stall to be installed in rental housing;. Hallways are too narrow for power chairs, stairs leading into and out of the houses are difficult to navigate etc. There will come a time when the department acknowledges this issue and asked for the provider industry to help resolve it. The assurance that a house is controlled by the participant could still be met even if it was provider owned by having arm's length transaction including signed leases etc. CMS has approved these types of arrangements with RALF etc. Don't tie your hands by being so explicit about this in rule. If the department was to look into real estate law, it clearly states that a contract is not valid is the individual signing the contract is unable to make informed decisions. In some cases, we serve folks in that category. Many landlords are aware of this law and are uncomfortable leasing to individuals with disabilities knowing this fact. Remove "The agency owner, administrator or personnel are prohibited from owning the home or apartment." From your requirements above "The home is defined to be owned or rented by the participant when the participant has entered into a valid mortgage, lease, or rental agreement for the residence and when the participant is able to provide the Department with a copy of the agreement." Is sufficient.	These types of accommodations are addressed in the Certified Family Homes, ICF/ID and RALF settings.	
W W	011.23	This rule naively assumes that it is easy for participants to procure living arrangements and leases. There are many instances where a participant is only able to rent because of an agency willing to cosign the lease. It enables participants to get much more suitable accommodations. Requiring participants to only rent from landlords who will	These types of accommodations are addressed in the Certified Family Homes, ICF/ID and RALF settings.	

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		allow only their signatures will reduce the quality of the living arrangements and open the participants up to exploitation. The rule also naively restricts agency personnel from renting to participants. These circumstances are usually the best for participants as the landlord is much more patient and accommodating. IDHW should welcome any benefit the participants could receive from their association with providers. It would be better to regulate how the rental relationship won't bind the participant to the agency rather than disallow it all together.		
W	011.23	<p>This rule makes it unclear if supported living services can be done in a home where the participant lives with his/her family, but where the family are not paid providers. This raises concerns for those participants whose families are unable to be paid providers, but the participant's needs and plans for the future are best addressed by residential habilitation services.</p> <p>I recommend amending the definition as follows (as highlighted in italics): "One, two, or three participants who live in their own home or apartment and require staff assistance, or <i>participants who live with a family member or other natural support who is not receiving Medicaid payment for their care, and is unable to provide for all the participant's identified needs.</i> A residence is considered to be the participant's own home when it is owned or rented by the participant. The home is defined to be owned or rented by the participant when the participant has entered into a valid mortgage, lease, or rental agreement for the residence and when the participant is able to provide the Department with a copy of the agreement.</p> <p>When two or three participants reside in the same home, services may be provided through individual or group staffing arrangements as approved by the Department. The agency owner, administrator or personnel are prohibited from owning the home or apartment, <i>or from being party to</i></p>	This rule has been changed to include "participants who live with a family member or other natural support who is not receiving payment for their care"	

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		<p><u><i>a lease or rental agreement for the home or apartment.</i></u></p> <p>I also strongly recommend that the rule include who gets to control who moves in or out of the home or apartment, i.e. choosing roommates. It is my experience that even when an agency does not own or is not party to a lease of a home, the agency still may truly be in control of who and who does not live there. This has lead to cases where a participant was told there was an opening in an apartment staffed by the agency, and that this is where the participant would live. The participant then is required to sign the lease to live there, having no control over his/her roommate(s), as well as is now in a position to be responsible for damages done by the previous participant tenant, current roommates, and even staff of the agency. There has also been agency control over where the participant's personal belongings or furniture are placed and other questionable control by agency staff. Despite the participant being the one on the lease, we have witnessed situations where the agency is actually in control of the residence and not the participant. I would like to see this addressed in the new rules.</p>		
W	011.23	Finding a suitable place to live under a lease with landlords is difficult for participants. They do not have credit, and yet participants and their guardians would like to live in decent places.	These types of accommodations are addressed in the Certified Family Homes, ICF/ID and RALF settings.	
W	011.23	<p>Supported Living. "...and require staff assistance." Shouldn't this also say "staff supervision"? Most participants don't need assistance all the time, but do need supervision.</p> <p>"...when the Participant has entered into an agreement..." Does this mean the agency is not allowed to lease the home from an outside person and have the participant pay rent to the agency? We are often caught in a situation that the participant's credit is poor or they have a felony and are not capable of renting their own place, so we rent it in our name and have them pay rent to us. Perhaps a written lease</p>	These types of accommodations are addressed in the Certified Family Homes, ICF/ID and RALF settings.	

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		agreement between the participant and the agency is in order.		
W	.011.23	.011.23-This rule naively assumes that it is easy for participants to procure living arrangements and leases. There are many instances where a participant is only able to rent because of an agency willing to cosign the lease. It enables participants to get much more suitable accommodations. And develop a positive rental history. Requiring participants to only rent from landlords who will allow only their signatures will reduce the quality of the living arrangements and open the participants up to exploitation. The rule also naively restricts agency personnel from renting to participants. These circumstances are usually the best for participants as the landlord is much more patient and accommodating. IDHW should welcome any benefit the participants could receive from their association with providers. It would be better to regulate how the rental relationship won't bind the participant to the agency rather than disallow it all together.	These types of accommodations are addressed in the Certified Family Homes, ICF/ID and RALF settings.	
W	.011.23	The last statement in this section seems to be self-defeating. In a time when housing is at a serious shortage, and especially housing that is both affordable and fully assessable, limiting ownership by persons involved in the industry simply contributes to the shortage. I understand the logic for this could be that the individual may fear losing their home if they chose to have a provider other than the company who owns their home. However, this is easily rectified with a simple action. In the required lease, include a statement guaranteeing that the participant can stay in the home regardless of their choice of provider. Or, require a third party management company to do the renting with the owner having no say in who stays in the home. To eliminate the very people who care about this population and are willing to put their own assets and resources into providing affordable, accessible housing, seems outside of reason. This would be especially true if the willing property owner was a private non-profit corporation where there is no	These types of accommodations are addressed in the Certified Family Homes, ICF/ID and RALF settings.	

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		owner, no one to benefit from the rental of the property other than the person with a disability.		
W	011.23	<p>My Thought: This is such a difficult part of supported living. Most landlords and property management companies will not rent to the participants because of various reasons. Ex: they have criminal records, not sufficient funds to put 1st and last mo. rent down, they feel the participant is not capable of repairs incurred during their stay, and liability issues, etc.</p> <p>Suggestion: Allow Agency owners, administrator, or personnel to own the homes to allow for better living conditions. Or if you are totally opposed to this.....</p> <p>Just say: Anyone having controlling interest or decision making authority in the agency are prohibited from owning the home or apartment</p>	These types of accommodations are addressed in the Certified Family Homes, ICF/ID and RALF settings.	
W W	011.24 Supported Living Personnel	Why is owner included in this definition? I understand that there are larger organizations that are owned by investment companies. How does this work for them. I guess I need to understand the point. When I read Supported Living Personnel, I think of people who are actively involved in the day to day operations of the agency. The owner may not be actively involved.	This has been changed to “any employee or contractor”	
W	011.24	This rule appears to restrict an agency from contracting with vendors such as Psychiatrists or Behavioral Consultants? If this rule prohibits contractual agreements, we would oppose this rule.	This has been changed to “any employee or contractor”	
W	011.24	Take out employee	This has been changed to “any employee or contractor”	
W	011.25 Supports	Supports. The new definition does not match 16.03.10. I would recommend no change so this matches IDAPA.	These rules are specific to Licensing & Certification (L&C) and not intended to address payer specific requirements.	
W W	011.25	This definition does not match the definition of supports in 16.03.10.508.24. All definitions must be reconciled.	These rules are specific to Licensing & Certification (L&C) and not intended to address payer specific requirements.	
W	011.28 Transition	Why is this not a Service Coordination function? Often times, when individuals decide to transition from an	Thank you for your comment.	

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	Plan	agency; the agency has very little knowledge as to where the individual is transitioning; why; etc. – this seems like a planning function that service coordination should manage.		
W W	100.02.b.i-xviii Application	I recommend removing all of the filler DDA language from the rules as they provide no added benefits to reshab-only extra work. Dropping them into reshab does not translate cleanly and overburdens administrative resources. The minutia of complying with the code of ethics, transportation safety policy, medications standards, development of social skills and the management of participants' inappropriate behavior, countless other policies and procedures, etc. have many cumbersome administrative elements and have historically been used against providers. Divisions of IDHW have cited agencies for not following their own policies and procedures, in their opinion, whether required in rule or not. Inserting highly-involved policies and procedures (in conjunction with agencies' tendencies to develop their own policies and procedures) equips IDHW with innumerable means to cite, sanctions, recoup, penalize, or damage the operations of the agency. These and other DDA regulations have not markedly improved DDA outcomes. Rather, the challenges of DDA rules have compelled many providers to narrow their scope, close, transition participants, and struggle with the oftentimes vague language in the rules sets governing DDAs, including 16.03.10.	This would only affect new providers and clarify L&C requirements.	
W	100.02.b.iii.	How would the agency demonstrate as part of the application process they are in compliance with the RH rules if they are not yet operational?	This has been changed from “is in compliance” to “will comply”...	
W W	100.02.b.viii	See comments associated with .100.02.b.i.-xviii. There are labor laws the prevent a reshab agency from discriminating the employment with someone with a communicable disease. This archaic and impossible employee and participant protection requirement needs to be removed or the Department of Labor needs to provide consultation on the allowable means by which a provider may terminate or refuse employment of a staff who happens to disclose a	The agency must have Policies and Procedures to protect the participant and staff. Additional comments will be addressed in those sections referenced.	

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		communicable disease, even a common/harmless one. This rule as it stands sets providers up to lose litigation by employees claiming discrimination.		
W	100.02.iv.	“Inappropriate boundaries” is subjective.... Would this include solicitation and coercion (intentional or non) of participants to select their agency? This has been a recurring issue. If evidence was shown for either of these cases, is it possible to add in repercussions for to the agency either here, under Administrator Responsibilities or under treatment of Participants?	The last statement in rule requires that the policy reflects nationally recognized standards of practice, thereby reducing subjectivity of specific categories including “inappropriate boundaries”	
W W	100.03.b Denial	This rule needs to be rewritten to allow the owner or administrator to utilize any of their staff necessary to demonstrate compliance and challenge the denial. 16.05.03 does not restrict the representation to only an owner or administrator and neither should these rules. For example, an owner or administrator may not be clinically trained and hires professionals to execute these elements of the operation. In this rule, IDHW clearly establishes the likelihood of a denial as the owner or administrator will have to bumble through the articulation of the aspects outside of their expertise. Limiting the expertise of a provider, especially in a contested denial, seems counterintuitive. IDHW should want the clearest explanation of the disputed denial to include anyone the provider selects to participate.	This rule has been changed to align with the 16.05.03 rules.	
W W	100.04 Revocation	Revocation. Question why was this entire section removed?	This rule was not removed, it was moved to 502.	
W		Why was this entire section removed? Don’t you need to keep it to give you the ability to revoc a certificate?	This rule was not removed, it was moved to 502.	
W W	100.05Inspecti on of Residential Habilitation Records	“Reasonable time” must be defined to ensure consistency across divisions of IDHW. Without an objective standard, the reviewers subjectively determine if they have allowed “reasonable time” for the agency to produce documents from potentially vast archive files. Divisions of IDHW, if already assuming the provider is guilty of something, sensationalize the fact that records take time to find for	This rule has been in place since 2004. Unable to adequately address this comment as no specific recommendation or issue addressed.	

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		review. There are also different allowances when IDHW makes requests in writing versus if making requests onsite. When made in writing, a provider is given days to locate and submit the documents. When onsite, the provider is expected to submit the records immediately or risk the assumption by IDHW that they are fabricating or doctoring documents. This sort of thing would rarely ever occur, in my opinion. I recommend that IDHW develop a standard for record access that is uniform in writing or onsite and patience is extended to find all of the “needles in the haystack” that coincide with the requests.		
W	100.07 Agency Provider Training (removing this rule)	“Agency Provider Training” has been struck. The eliminated section indicates that the Department “must assure(s)” on-going training for Supported Living staff. Although it is mentioned that the Supported Living agency must have documentation “available upon request” for the Department to review, the striking of this section further removes the Department to have the enhanced ability for quality assurance which causes concern for the SUBMITTER related to the high number of critical incidents received within the supported living agency industry. The SUBMITTER would prefer that this section be restored and have more direct influence over the training staff is receiving in order to improve outcomes for the individuals being served.	This rule as written indicated the Department was responsible for training Direct Service Providers. This rule was removed and other training requirements for the agency were enhanced for which L&C has oversight.	
W; W	101.01 Initial Certificate	The rules technically allow a provider who successfully passes their initial survey to qualify for a 3 year certificate, but L&C currently doesn’t allow this. If a provider is in substantial compliance, the full menu of certification should be available to them and this could be disputed through an administrative review according to 16.05.03.300 if not detailed clearly in rule. Processes should be codified in rule.	Clarification was added to rule to follow current process.	
W	101.02 One-Year Certificate	One-Year Certificate. A one- (1) year certificate is issued by the Department when it determines the agency is in substantial compliance with these rules, but there may be areas of deficient practice which would impact the agency’s	Based on comments regarding definition of substantial compliance, the definition was revised and other corresponding definitions were added including ‘inadequate care’ and	

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		ability to provide effective care. An agency is prohibited from receiving consecutive one- (1) year certificates. How will the Department discern between substantial compliance that have no areas of deficient practice that would impact safe and effective care and substantial compliance where deficient practice impacts the ability to provide effective care? This seems extremely subjective and we would request the Department define this difference in more measurable terms.	‘core issues’. Rule was clarified to meet process.	
W	101.03 Three-Year Certificate	Three-Year Certificate. A three (3) year certificate is issued by the Department when it determines the agency requesting certification is in substantial compliance with these rules and has no areas of deficient practice that would impact safe and effective care. How will the Department discern between substantial compliance that have no areas of deficient practice that would impact safe and effective care and substantial compliance where deficient practice impacts the ability to provide effective care? This seems extremely subjective and we would request the Department define this difference in more measurable terms.	Based on comments regarding definition of substantial compliance, the definition was revised and other corresponding definitions were added including ‘inadequate care’ and ‘core issues’. Rule was clarified to meet process.	
W W	101.04 Provisional Certificate	The rules technically allow a provider who successfully passes their provisional survey to qualify for a 3 year certificate, but L&C currently doesn’t allow this. If a provider is in substantial compliance, the full menu of certification should be available to them and this could be disputed through an administrative review according to 16.05.03.300 if not detailed clearly in rule. Processes should be codified in rule.	Based on comments regarding definition of substantial compliance, the definition was revised and other corresponding definitions were added including ‘inadequate care’ and ‘core issues’. Rule was clarified to meet process.	
W W	102 Renewal of Certificate	The requirement for an agency to request the renewal of the certificate should be removed as there is not functional utility in it. L&C schedules surveys well in advance and rarely works with agencies to coordinate the recertification. Clearly L&C tracks the recertifications. In other instances, L&C has sent out the certification notices in advance of the 90 requirement to the potential detriment of the provider if they don’t redundantly request the survey still. Either	Although L&C is proactive on scheduling surveys it remains the responsibility of the Agency of its intent to remain certified.	

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		remove the rule or develop mechanisms to partner with providers more to coordinate the recertification reviews.		
W W	102.02 Expiration of Certificate	The requirement for an agency to request the renewal of the certificate should be removed as there is not functional utility in it. L&C schedules surveys well in advance and rarely works with agencies to coordinate the recertification. Clearly L&C tracks the recertifications. In other instances, L&C has sent out the certification notices in advance of the 90 requirement to the potential detriment of the provider if they don't redundantly request the survey still. With this rule, the lack of "timely request" could rigidly result in the automatic revocation of the certification, even if 1 day late. This poses technical challenges to L&C and providers. Either remove the rule or develop mechanisms to partner with providers more to coordinate the recertification reviews.	Although L&C is proactive on scheduling surveys it remains the responsibility of the Agency of its intent to remain certified.	
W	105.01 Notification to Department	Change of Ownership. There is no mention within this section that the Participant or Guardian must be notified when the agency changes owners. The SUBMITTER suggests that it should be a requirement that the Participant /Guardian be notified 30 days prior to a change of ownership. This practice is essential to their ability to have informed choice in the services they receive.	This rule has been added to 16.04.17.404.08. "Notification to Participant or Guardian of Change of Ownership. The agency must notify the Participant or their guardian no less than 30 days prior to a change of ownership in order for them to have informed choice in the services they receive."	
W W	200.03 Responsibilities	Putting the need for adequate staffing into writing does not make it happen. Only adequate wages will do that. Encourage you to interface with provider industry and other divisions of the department that control rates together. This is a perfect time to have those discussions as we are in the middle of a rate study.	This change was for clarification only. These rules are specific to Licensing & Certification (L&C) and not intended to address payer specific requirements.	
W	200.03.d	The only way we will get good staff and operate great programs is to pay better wages. This discussion needs to happen, and now is a good time given that we are in the middle of cost study.	This change was for clarification only. These rules are specific to Licensing & Certification (L&C) and not intended to address payer specific requirements.	
W	200.03.e	I recommend adding safety plan to the end of the first sentence. This would provide clarification and minimize the risk of MPIU by clarifying the safety plan is part of the Plan	The 'safety plan' is payer specific terminology and is not necessary for L&C requirements.	

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		of Service and Implementation Plans.		
W W	200.03.e	This rule dangerously binds the provider to a plan of service they did not develop and cannot not amend if the service and supports elements are incorrect. If IDHW intends to obligate the provider to the plan of service, they must be able to develop the content and have a mechanism to update and modify all of the elements. There are countless mistakes made in the plans of service by plan developers and/or modifications made by care managers that the provider may not agree with, but would be the one punished if not followed. Additionally, this rule requires much more vigorous administrative actions to track every single adjustment of work schedules “at any given time”. This language opens the agency to significant danger if the changes in work schedules aren’t updated promptly enough in the opinion of IDHW. With thousands of staff hours, labor hours, 1:1 hours, group hours, etc. that need to be accounted for, the likelihood of providers’ chronic deficiencies is guaranteed. This, coupled with the negativity of repeat deficiencies and remedies, will require abundant administrative costs to monitor. This rule should be simplified and returned to the previous requirements. Reshab staffing is very fluid and not static like many other services. It is somewhat naïve to assume providers can flawlessly capture every single adjustment on the fly or “at any given time”. Divisions of IDHW could abuse this requirement if investigating a provider and want to demonstrate a pattern of noncompliance.	L&C requirements address the provider follow the plan of service. Issues and concerns within the plan must be addressed through the payer source.	
W	201 Administrator	Maybe adding “ensuring safety of participants”?	16.04.17.201.03.f addresses the safety of participants.	
W	201	Is it possible to add some language around conduct of administrators and what the repercussions of improper conduct might be? Also defining improper conduct as that is subjective.	16.04.17.100.02.iv (application) and 16.04.17.405.02.e (QA) address the agency must have P&P’s addressing code of ethics.	
W W	201	This rule does not define the measure for compliance for the required elements of the administrator. There must be a frequency to it to gauge minimum standards otherwise these	This is addressed in 16.04.17.201.03.	

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		will be used against an administrator to show that they didn't do enough if something goes bad. Currently, this rule is thrown into surveys that are poor to indict the administrator as incompetent. Without objective delineation of what the minimum standards are for the administrator to be accountable or oversee services, inconsistency could abound. Also, it is ineffective that administrator supervision does not allow delegated tasks. As previously recommended, 23.01.01.400 allows nurses to determine the scope of practice for tasks and delegate those responsibilities to others with a plan to monitor the delegated elements of the nursing care. It is odd that a more rigorous medical model such as nursing will allow a nurse to delegate elements of care to other and follow up on them, but reshah doesn't. I recommend that the decision-making model of the Board of Nursing be worked into reshah rule in order to allow the administrator to determine the scope of supervision, delegate portions, and follow up on them, especially considering that IDHW is going to saddle them with more responsibilities by way of these undefined rules.		
W	201.01.c	Should we include hours in the experience requirement?	This is addressed through 3 years of paid experience, by narrowing it down to hours this may make it too difficult to find a qualified Administrator.	
W	201.01.c.	in the DD world there has been some debate as to what constitutes a year or years of experience. We have agencies using part time for a year as a year's experience. Might consider putting in hours of experience.	This is addressed through 3 years of experience, by narrowing it down to hours this may make it too difficult to find a qualified Administrator. "Paid" has been removed from the rule.	
W W	201.01.c.	This rule unnecessarily requires "paid" experience "with the population served to qualify as administrator. There is nothing identifiably necessary or better in requiring "paid" over "unpaid" experience. Also, "Residential Habilitation" is unique to Idaho and changing the reference to experience "with the population served" (reshah) limits providers from recruiting and hiring individuals who don't have experience	"Paid" has been removed from the rule.	

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		with reshab specifically, but have experience with “developmental disabilities” and residential services in other states. Also, there are skilled individuals who have provided residential services in other contexts in Idaho, but not technically “with the population served”. I believe that the requirements should open the possibility of finding diversely qualified administrators rather than narrowing the possibilities. Providers will be compelled to recycle the same administrators who may meet the qualifications when they would otherwise prefer to expand their hiring pool.		
W W	201.02 Administrator . Absences	This rule disallows the use of independent contractors as administrators and is unusual considering that DDAs and TSC agencies are allowed to use them. I believe that there is limited benefit from requiring the administrator to designate a qualified employee versus a qualified person as previously delineated in rule.	The TSC is not within L&C’s purview and upon review of 16.03.21 rules there is no reference to an independent contractor as an administrator. The agency is responsible for these rules and the independent contractor cannot be held to the rule requirements.	
W	201.03.c Administrator Responsibilities	I am in favor of monthly staff meetings as we do them already. I do not agree with the requirement of the Administrator conducting each meeting. This can be delegated to other management staff.	16.04.17.201.03 already allows for Administrator or his designee.	
W	201.03.c	Administrator Responsibilities. This will be an additional expense, a large one at that, this requirement should be extrapolated into the rate study. Example 100 staff at \$8.00 per hour x 2 hours for staff meeting equals \$1,600.00 per month. Add 30% for statutory benefits \$480.00 for a total of \$2,080.00 per month. IN addition since supported living is a 24 hour service, professional staff are not just tied up for that 2 hour period. We have to run 4 meeting taking up the entire day for all of my professional staff.	This rule has been in place and only a clarification from “regular” to “monthly” agency staff meetings. In response to time and cost the rule does not dictate the process which would allow the agency to develop their own.	
W	201.03.c referenced 201.01.c, but appears to be directed at	What are the expectation of meeting this requirement. Is this for all staff? Or could this be a professional meeting with the Administrator?	Based upon multiple comments and concerns, the rule has been changed to “A documented review of program and general participant needs with the professional on at least a quarterly basis or more often as necessary to plan and implement	

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	201.03.c.		appropriate strategies for meeting those needs.”	
W	201.03.c	Administrator. Staff meetings on at least a monthly basis being conducted by the Administrator is a concern. Training and supervision is highly emphasized within these proposed rules. I recommend quarterly meeting conducted by the Administrator as your team indicated there were agencies in the state of Idaho who met only annually determined by your team during on-site visits and/or reviews. However, we all know that is not the standard. I am a strong believer that many rules, requirements, and laws are in place because someone somewhere did something they should not have. The other training, supervision and quality assurance standards by supervisory personnel will provide the desired outcome intended by this rule.	Based upon multiple comments and concerns, the rule has been changed to “A documented review of program and general participant needs with the professional on at least a quarterly basis or more often as necessary to plan and implement appropriate strategies for meeting those needs.”	
W W	201.03.c.	This rule unnecessarily implements are requirement for monthly staffing meetings and doesn’t define the mode of completing them. For example, the rule doesn’t specifically indicate that the staffing meetings have to occur in an office or could occur in the field. If the agency is required to provide the staff meeting in the office, there will need to be at least three separate meetings at odd hours to prevent disruptions to the work schedules and participants’ services. Considering the proposed requirements of tracking work schedules “at any given time”, the addition of mandatory staff meetings monthly will be challenging. If IDHW were to indicate that staff meetings in the field are allowed, it is arguably inappropriate for this requirement to be fulfilled in the participants’ homes or out in the community. By default, then, it must be met in the office. Many agencies serve participants in corners of regions that are not close an office and makes attendance that much more challenging. Going back to the odd hours of staff meetings, this will strain the administrator to “conduct” all of the staff meetings. There is no functional benefit to requiring the administrator to fulfill the monthly staff meetings. I	Based upon multiple comments and concerns, the rule has been changed to “A documented review of program and general participant needs with the professional on at least a quarterly basis or more often as necessary to plan and implement appropriate strategies for meeting those needs.”	

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		recommend that this function adhere to the concepts delineated in 23.01.01.400 for delegation of supervisory functions. Stressing the administrative capacity of providers may not be of concern to IDHW, but the rural character of the state and limited professional hiring pool are only some of the barriers in complying with this rule. In my opinion, the agency should be allowed to develop any means to provide supervision and staff meetings, including telephonic, electronic, digital, written, delegated, etc. in order to minimize costs and optimize outcomes. The rule as written will only guarantee challenges, costs, and deficiencies for one reason or another.		
W	201.03.c	Because of providing services 24-7, this would be difficult to get all staff in at the same time to conduct supervision. Being able to provide supervision through telephone, electronic, digital, written, delegated, would be helpful.	Based upon multiple comments and concerns, the rule has been changed to “A documented review of program and general participant needs with the professional on at least a quarterly basis or more often as necessary to plan and implement appropriate strategies for meeting those needs.”	
W	201.03.c	I like the idea later in this document of requiring a training element but mandate that the professional also do a monthly staff meeting. This could also be done by a house supervisor or other para level staff and be just as effective. This will be costly and the rates may need to take this into consideration because this would be an additional cost to providers that was not captured in the current rate study.	Based upon multiple comments and concerns, the rule has been changed to “A documented review of program and general participant needs with the professional on at least a quarterly basis or more often as necessary to plan and implement appropriate strategies for meeting those needs.”	
W	201.03.c	I think this should be up to the individual agency and what works best for their business model and the unique set of employees of each agency. Sometimes, individual meetings may be most beneficial. Sometimes meeting every six weeks with a staff that has 15 years of experience with a given participant or even just in the agency would be more than adequate. It appears that the Department is trying to tell us how to manage our employees and our businesses. I don’t think that is an appropriate roll for the Department.	Based upon multiple comments and concerns, the rule has been changed to “A documented review of program and general participant needs with the professional on at least a quarterly basis or more often as necessary to plan and implement appropriate strategies for meeting those needs.”	

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W	201.03.c	I doubt that any agency has monthly staff meetings at this time. This will be an additional expense, a large one at that, this requirement should be extrapolated into the rate study. Example 100 staff at \$8.00 per hour x 2 hours for staff meeting equals \$1,600.00 per month. Add 30% for statutory benefits \$480.00 for a total of \$2,080.00 per month. IN addition since supported living is a 24 hour service, professional staff are not just tied up for that 2 hour period. We have to run 4 meeting taking up the entire day for all of my professional staff.	Based upon multiple comments and concerns, the rule has been changed to “A documented review of program and general participant needs with the professional on at least a quarterly basis or more often as necessary to plan and implement appropriate strategies for meeting those needs.”	
W	201.03.c	Documentation of staff meetings My Thought: We do it, but to put in rule a time line for this, I feel, is over regulating. Is this for professional or direct care? Suggestion: Could say: Conduct and maintain documentation of professional and direct care staff training.	Based upon multiple comments and concerns, the rule has been changed to “A documented review of program and general participant needs with the professional on at least a quarterly basis or more often as necessary to plan and implement appropriate strategies for meeting those needs.”	
W W	201.03.d.	This rule needs to identify the government accepted accounting principles specifically.	This rule has been in effect without change since 3/29/12 and has not been an issue with surveys up to this point.	
W	201.03.d	This rule needs to identify the government accepted accounting principles specifically.	This rule has been in effect without change since 3/29/12 and has not been an issue with surveys up to this point.	
W W	201.03.e.	This rule needs to indicate that records specific to residential habilitation services need to be available for review. Other divisions of IDHW have abused this sort of all-encompassing language to request records that have nothing to do with service provision. It should not be assumed that all administrative, financial, investment, staffing, benefits, management, etc. records pertain to actual service provision. There is no functional reason why IDHW would need to see invoices pertaining to office maintenance, IT, plumbing, etc., yet this rule grants IDHW access to “all records”. This infinite scope of authority and	Thank you for your comment, this is not a new rule.	

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		review has caused problems in the past and should be reconsidered and related to reshaping records only.		
W	201.03.f.	To ensure	Per recommendation the rule has been changed to “addressing safety measures to “ensure” the protection of participants, and staff as mandated by state and federal rules; and”	
W W	201.03.f.	This rule is poorly contemplated in its assumption that it is possible to protect participants and staff sufficiently. Additionally, there are no specific federal and state rules cited that mandate “Developing and implementing as policy...”. Safety measures for participants and staff are dynamic, changing risks. The definitions of safety are not objectively defined. The terms need to have measurable meaning that can actually be realized by providers considering IDHW’s enforcement activities. The assumption that safety can be protected 24 hours per day for participants and/or staff is somewhat ignorant to the nature of the service. These impossible pressures have caused and will continue to cause distress for providers. The minutia of complying with countless policies and procedures, etc. have many cumbersome administrative elements and have historically been used against providers. Divisions of IDHW have cited agencies for not following their own policies and procedures, in their opinion, whether required in rule or not. Inserting highly-involved policies and procedures equips IDHW with innumerable means to cite, sanction, recoup, penalize, or damage the operations of the agency.	This rule has been in place since at least 3/29/12 and is necessary for state and federal compliance.	
W	202 Professional	There is no requirement for the Professional to take the “Assistance with Medication” course. Because the Professional is often times providing training and quality assurance for direct care staff, it is essential that the Professional be fully informed regarding “Assistance with Medications.” SUBMITTER recommends this requirement be added to the Professional requirements.	16.04.17.203.05 states “each staff person” assisting with participant medications... must successfully complete and follow the assistance with medications... This requirement was also added to 16.04.17.202.05	
W	202.01	An alternative test or certification that would qualify	At this time we are unable to change this	

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	Professional	applicants that do not carry a bachelor's or master's degree in human services would assist in fulfilling these positions.	rule to allow for an individual with a Bachelor's Degree or higher to take a test or certification due to Federal requirements.	
W	202.01	I also really liked the idea of a QIDP to include the ability for a person with a degree to be able to take the adult DS test and qualify as a QIDP.	At this time we are unable to change this rule to allow for an individual with a Bachelor's Degree or higher to take a test or certification due to Federal requirements.	
W	202.01	Professional. Should we add hours for professional too?	This is addressed through 1 year of experience, by narrowing it down to hours this may make it too difficult to find a qualified professional.	
W	202.01	Defining what one year means would be advisable.	This is addressed through 1 year of experience, by narrowing it down this may make it too difficult to find a qualified professional.	
W	202.01	I thought I wanted to take a stab at the definition of professional but think it is better to go to page 12 and look at 202.01. I think the wording one year experience professionally supervised is good, it means a person has to do more than hang out with the population but requiring the person to have one year experience writing and implementing Behavior and Skill Training Program Implementation Plans is a little daunting. Why not just stick with the Fed regs? Or the ever popular "or demonstrate the ability..." or require some ongoing training during the first year? It's hard to find good Prog. Coord. And in some cases this is where they get their start. People are looking at their work, within the agency itself and within the Dept. so they are receiving support and feedback that first year.	The verbiage addressed in this rule addresses the Federal requirements of the QIDP.	
W	202.01	The Q does not need to do all training, nor does the Q need to do quarterly trainings. It is too cumbersome to have the Q train all 155 employees. This needs to be delegated. We have several long term staff that are very capable of doing training. This is considered ongoing training by the home management.	202.04.a requires the professional to conduct the skills training only. Skill training is addressed in 16.04.17.011.20 definition.	
W	202.01	I would like to see a provision to have Professionals have a	The verbiage addressed in this rule	

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		time where they can be acting under the guidance of a designated professional while learning to write and implement behavior and skill training PIP's. This would appear to make in nearly impossible to hire a new professional just out of college. It is already difficult to find professionals with experience in the field.	addresses the Federal requirements of the QIDP.	
W	202.01	Is there a national standard or definition for Human Services Field?	The QIDP rules address Human Services Field and address specific degrees, "but not limited to".	
W W	202.01	Draft rule 16.04.17.011.11 indicates that the professional may be a PC or QIDP and later states that the individual must meet the qualifications of section 202 of rule. See my analysis of the definition of the rule above. Section 202 of rule indicates that the professional must have human service degree. This is more-strict than the CFR on QIDPs and limits the professionals who can function in this capacity. In review of the CFR, there are other means by which an individual can become a QIDP that must be still allowed in these rules. There are individuals working as QIDPs who don't have human service degrees, but qualify by the CFR. The rule should be changed to reflect that a human service degree is not the only way to qualify as a professional.	This section has been removed from the definition "This position may be referred to as the program coordinator or QIDP as defined in 42 CFR 483.430".	
W	202.01	This is self-defeating rule that would restrict professionally trained individuals from entering the field of developmental disabilities. How can one get experience in writing and implementing Behavior and Skill Training Implementation Plans without working as a professional in the industry? Very few businesses have the ability to bring on an extra professional level person just to train them unless there is an actual opening. And, if they have an actual opening, a smaller agency will not necessarily have a professional on staff to train the new professional. So, how do they get their experience?	The verbiage addressed in this rule addresses the Federal requirements of the QIDP.	
W	202.02	Leave out the words "of formal" in the paragraph, and include, "as directed by a QIDP, and in addition to the First Aid and CPR Requirements which are required on a biennial basis."	Should this be addressing 204.02 Formal Training? Unable to address this without clarification.	

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		Also, the second sentence of that paragraph is a re-statement of Page13.01.k directly above. It could be eliminated.		
W	202.03 Professional. CPR/1st Aid	Prior to working “with” participants-add “with”	Correction made	
W	202.03	CPR prior to working with participants should only be if they are the only person with the participant. If there is a trained person in the building it would make sense to change this to a 30 day period in order to allow the agency to have the training completed.	Considered, but too much potential health and safety risk and non-compliance in this service delivery.	
W W	202.03	If the professional or any staff do not work with participants, they should not be required to obtain and maintain CPR and 1 st Aid. It adds to cost, overhead, QA obligations, and potential deficiencies unnecessarily.	The professional due to their responsibility to go into the home and train staff are required to have CPR/1 st Aid prior to working with participants.	
W	202.03	I understand the intent of this rule, to have staff trained in CPR and First-Aid on the floor with participants. Considering the current statewide and nationwide staffing crisis, it is critical that agencies get staff onto the floor as quickly as possible. This requirement slows the process by days and sometimes weeks. It would be more reasonable to only require one trained staff be on premises until such time that new staff can complete CPR and First Aid. A limit of some sore, maybe 30 days, could be put on the rule so that all staff would be trained after one month.	Considered, but too much potential health and safety risk and non-compliance in this service delivery.	
W W	202.04. Professional. Responsibilities	Professional Responsibilities. Define continuous and regularly scheduled and be readily available on site to ... Are you talking about for the agency? Each house? 24hours per day? This could result in each agency having to hire additional professionals to meet this requirement. If that is what you want then we need to come to a agreeable number of Q’s per clients served and that number needs to be reflected in the current rate study. Again, there are para professionals in the field that do and will continue to give training and feedback when they are in the houses. This should be allowed as ongoing training. Suggest Conduct and delegate all skill training for agency direct service staff.	<u>Removed “and be readily available on-site”</u>	

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		Delegation allowed?		
W	202.04	This leave no room for emergency placements. If there is already a functional assessment in place from another agency, that and the associated programs should be fine for the rest of the plan year. If the new agency wants to change programs or update the assessment as they get to know the person that should be fine. However if a person has an already approved plan that plan should follow them.	Added verbiage to include completed “or obtain”	
W	202.04	Change wording to: “A professional must be employed by the Residential Habilitation Agency and be readily available to:” This eliminates confusion of the words “on a continuous and regularly scheduled basis” and “on site,” which could be construed or interpreted to mean that the a professional must be in the office (on site) 24 hours a day seven days a week.	<u>Removed</u> “and be readily available on-site”	
W	202.04	Professional. I recommend removing continuous and regularly scheduled basis and be readily available on-site. This is just logistically impossible.	<u>Removed</u> “and be readily available on-site”	
W W	202.04	In my opinion, this is one of the most difficult proposed rules. For example, there is no functional benefit to requiring that the professional must be “employed” when other professionals in other DD services are allowed to operate as independent contractors. Currently, Medicaid and L&C allow reshab staff to theoretically work in reshab as independent contractors and this rule is one of several that will restrict that as an option just because. Also, I recommend removing all of the filler DDA language from the rules as they provide no added benefits to reshab-only extra work. Dropping them into reshab does not translate cleanly and overburdens administrative resources. The reference that the professional must be employed “...on a continuous and regularly scheduled basis and be readily available onsite to:” This requirement was/is one of the most problematic rules in DDA services as “readily available onsite” is not defined or specific. To add this to reshab is much more disruptive as services are home and	<u>Revised the Professional requirements.</u> <u>Removed</u> “and be readily available on-site”	

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		community based for up to 24 hours per day on a 1:1 and group basis. That means that professionals must be available onsite, wherever that might be, by participant at all times without clarification. This is impossible and will strain the resources of the agency. There is no feasible way that a professional must be onsite, wherever that might be, to render all of the required elements in the proposed rules. It will lead to a hemorrhage of existing professionals and a famine in hiring other qualified professionals to comply with the poor language of the rule.		
W	202.04	Having a professional regularly scheduled and on site would be difficult when staff is working at night.	<u>Removed</u> “and be readily available on-site”	
W W	202.04.a-d.	Please see comments associated with .202.04. These elements require that the professionals must be readily available onsite to execute these functions continuously. Taken literally, the professional has to do all of these things simultaneously while onsite in order to be in compliance as there is no language for flexibility such as “may complete”, “as necessary”, “such as”, etc. There needs to be allowance built into the rule to give the professional flexibility to complete the task(s) as necessary.	<u>Removed</u> “and be readily available on-site”	
W; W	202.04.a	See comments associated with .202.04. See comments on the technical definitions in the provider handbook and 16.03.10 of what “skills training” really is. The majority of the training categories in reshab do not require a professional to complete them.	Added “in accordance with the plan of service”	
W	202.04.a	I think defining this a little more clearly would help. Then you could have a qualified trainer/supervisor who can handle part of the orientation as outlined in 204.01. Say maybe a-j and the Professional could be responsible for k, l through vi.	See 204.01.k which addresses specific requirements for skill training conducted by the professional.	
W		Define continuous and regularly scheduled and be readily available on site to ... Are you talking about for the agency? Each house? 24hours per day? This could result in each agency having to hire additional professionals to meet this requirement. If that is what you want then we need to come to an agreeable number of Q’s per clients served and	<u>Removed</u> “and be readily available on-site”	

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		that number needs to be reflected in the current rate study. There are para professionals in the field that do and will continue to give training and feedback when they are in the houses. This should be allowed as ongoing training. Suggest Conduct and delegate all skill training for agency direct service staff.		
W W	202.04.b	Age appropriate functional assessment. This leaves no room for emergency placements. If there is already a functional assessment in place from another agency, that and the associated programs should be fine for the rest of the plan year. If the new agency wants to change programs or update the assessment as they get to know the person that should be fine. However if a person has an already approved plan that plan should follow them. WHO WILL PAY FOR THIS??	Added verbiage to include completed “or obtain”	
W		There is a concern regarding the time added to completing an additional assessment, as well as the fact that there is no payment method or mechanism. I would recommend that this be considered as part of the rate study. However, Licensing is not the BDDS and is not an active participant in negotiating the Medicaid Reimbursement rate for Residential Habilitation Supported Living services. I recommend removing this from the language unless reimbursement mechanisms can be added.	The functional assessment is currently required by rule. Added verbiage to include completed “or obtain”	
W W	202.04.b.	See comments associated with .202.04. This rule technically requires the functional assessment to be completed onsite, wherever that might be. Generally, skills assessments are completed with computers and other technological resources. However, if required to be completed onsite, the professional will not realistically be able to have all of the office equipment to complete it with ease. See comments on the fact the functional assessment in 16.03.10.503.02.b is the SIB-R and the need for an agency to complete a new one is unnecessary technically. If the new definition and requirements of the functional assessment in these rules become final, the assessment will be unfunded and increase administrative costs that are not	<u>Removed</u> “and be readily available on-site” The functional assessment is currently required by rule. Added verbiage to include completed “or obtain”	

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		included in the current rates and not included as a variable in the current rate study.		
W	202.04.b.	“Complete anPRIOR to the delivery of ...service.” We often do not have access to the participant and certainly do not know them even slightly, so performing a functional assessment seems improbable. Why not allow the 14 days as before?	<u>Removed</u> “and be readily available on-site” The functional assessment is currently required by rule. Added verbiage to include completed “or obtain”	
W	202.04.b	Completing a comprehensive functional assessment prior to entering services is a waste of time and effort. The document will be either modified numerous times or disregarded because the information will be useless as it will have been drawn from other providers where the participant was in a different setting. A much better procedure, in terms of providing the best information and achieving best practice, would be to require the completion of the assessment after at least 30 days of living in the new environment with different staff and different housemates. The first 30 days can be devoted to observation and providing a safe environment for the participant.	<u>Removed</u> “and be readily available on-site” The functional assessment is currently required by rule. Added verbiage to include completed “or obtain”	
W	202.04.c	Our Q and AQs are in the homes weekly. Home managers are in the homes everyday. Why does the Q need to do quarterly? How is this documented? Need clarification.	This is a current rule requirement. Typically agencies have a quarterly form that includes a home visit to assess participant satisfaction and progress.	
W W	202.04.c	See comments associated with .202.04. This rule technically requires the program implementation plans to be completed onsite, wherever that might be. Generally, PIPs are completed with computers and other technological resources. However, if required to be completed onsite, the professional will not realistically be able to have all of the office equipment to complete them with ease. See comments about the reality that the reshab agency does not develop the plan and has not means to amend the plan if there is a change of status or to correct mistakes. This rule dangerously binds the provider to a plan of service they did not develop and cannot not amend if the service and supports elements are incorrect, including PIPs. If IDHW intends to obligate the provider to the plan of service, they	<u>Removed</u> “and be readily available on-site” <u>The implementation plan correlate with the plan of service is a current rule.</u>	

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		must be able to develop the content and have a mechanism to update and modify all of the elements. There are countless mistakes made in the plans of service by plan developers and/or modifications made by care managers that the provider may not agree with, but would be the one punished if not followed.		
W	202.04.d	A system, guidelines, or certification that would allow an experienced direct service staff without degree opportunities to fulfill a portion of supervised professional responsibilities. (e.e house managers or leads) Or, financial reimbursement that allows agencies to provide the mandated observations.	This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional	
W	202.04.d	Based upon the discussion at the Boise Negotiated Rulemaking meeting, I recommend these supervision requirements be completed by non-professional supervisory staff. The current rate does not support increasing the responsibilities of the professional. Again, I would be happy to make a similar recommendation as in the above comment.	This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional.	
W W	202.04.d	Supervise service elements. How is this to be documented? Documentation time takes away from time on the floor supervising. The professional to client ratio must be reasonable for this to occur. Suggest ongoing discussions with the trade association to clarify the implementation of this rule.	This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional.	
W W	202.04.d	See comments associated with .202.04. This rule does not define the relationship of the supervision required of the professional and required of the administrator. It is ineffective that professional supervision does not allow delegated tasks. As previously recommended, 23.01.01.400 allows nurses to determine the scope of practice for tasks and delegate those responsibilities to others with a plan to monitor the delegated elements of the nursing care. It is odd that a more rigorous medical model such as nursing will allow a nurse to delegate elements of care to other and follow up on them, but reshaw doesn't. I recommend that the decision-making model of the Board of Nursing be	This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional. This quarterly rule requirement has been in place. The L&C team only defined this requirement. Previously 302.03 of current rule.	

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		worked into reshab rule in order to allow the professional to determine the scope of supervision, delegate portions, and follow up them, especially considering that IDHW is going to saddle them with more responsibilities by way of these undefined rules. This rule's frequency of quarterly supervision is in logical conflict of terms such as "continuous", "regularly scheduled", and "readily available onsite to:". It seems that in order to comply with the prescriptive language in the rule, allowing the supervision is quarterly is incorrect. The troublesome language with the timeframes needs to be corrected.		
W	202.04.d	How is this to be documented? What does "service elements" mean? This is additional documentation that would be required, that is not now.	Service elements was removed and changed to "Habilitation Services" which is defined in rule under 010.19.	
W	202.04.d.i	Observation and review of services. I like this since I feel the Professional is the critical person in this process and getting them into the houses more would be a huge advantage. The working "observation and review" allows for both in person observation and paper review of documentation. I guess the question is how often. We do monthly flow sheets documenting progress on formal programs. That could be the paper review since the Professional is seeing all the staff's documentation. I think once a month, on each shift, would cover at least half the staff each month and then observe the others the following month.	Thank you for the comment, your agency is going above minimum standards and per 202.04.d this is only required quarterly.	
W	202.04.d.i	My Thought: I understand this as; the Professional has to start documenting observations of direct care staff while working with the participant. My professionals already do client specific training either in the home or at the office. My professionals are already overwhelmed and on overload because of the 24 hour nature of this position. They are called all hours of the night and weekends. To add another responsibility to this position would be the straw that breaks the camel's back. I truly believe my professionals would quit. They would have to be in every home sometime during every 8hr shift for 24hrs. Logistically this would be	Removed 'observation' as a specific requirement based on NR comment. It is believed that it is happening, at least indirectly by filling in, or through the supervision requirement.	

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		<p>really difficult. We have Regional assistants (lead tech) in the home who provide direct care, train staff and are called to help with behaviors. Suggestion: Delete this line item Or Let a non-professional document observations, but we are do ongoing training all the time so this is just another documentation chore which leads to deficiencies because of more paperwork required to track.</p>		
W	202.04.d.	Again, this need to be delegated to AQs or home supervisors. The Q is too busy to do this. How would this be documented? What does it look like?	<p>This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional.</p> <p>This quarterly rule requirement has been in place. The L&C team only defined this requirement. Previously 302.03 of current rule.</p> <p>The para's, houseleads, etc. may monitor the day to day activities and report back to the professional and then the Professional would conduct quarterly visits to ensure services are implemented as authorized on the plan of service.</p>	
W	202.04.d	Again how is this to be documented and still think allowing for delegation would increase frequency of direct care receiving feedback.	<p>This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional.</p> <p>This quarterly rule requirement has been in place. The L&C team only defined this requirement. Previously 302.03 of current rule.</p>	

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			The para's, houseleads, etc. may monitor the day to day activities and report back to the professional and then the Professional would conduct quarterly visits to ensure services are implemented as authorized on the plan of service.	
W W	202.04.d.i.	See comments associated with .202.04. Considering that language, the observation and review of direct services has to occur “continuously”, for example. Working in a quarterly frequency conflicts with it. There is also a practical barrier to “ensure” that the staff implement everything as designed and demonstrate the skills to provide services as they are individuals with free will. As previously recommended, 23.01.01.400 allows nurses to determine the scope of practice for tasks and delegate those responsibilities to others with a plan to monitor the delegated elements of the nursing care. It is odd that a more rigorous medical model such as nursing will allow a nurse to delegate elements of care to other and follow up on them, but reshah doesn't. I recommend that the decision-making model of the Board of Nursing be worked into reshah rule in order to allow the professional to determine the scope of supervision, delegate portions, and follow up them, especially considering that IDHW is going to saddle them with more responsibilities by way of these undefined rules.	This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional. This quarterly rule requirement has been in place. The L&C team only defined this requirement. Previously 302.03 of current rule. The para's, houseleads, etc. may monitor the day to day activities and report back to the professional and then the Professional would conduct quarterly visits to ensure services are implemented as authorized on the plan of service.	
W		I think allowing for para's to do this would be valuable. If they are observing for programming, would grave yard staff be except because they are not running programs but sleeping? How would we document observations on them?	This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional. This quarterly rule requirement has been in place. The L&C team only defined this requirement. Previously 302.03 of current rule.	

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			The para's, houseleads, etc. may monitor the day to day activities and report back to the professional and then the Professional would conduct quarterly visits to ensure services are implemented as authorized on the plan of service.	
W	202.04.d.i.	In many agencies, there are mid-level staff such as Lead Workers or supervisors who are not Professionals that have 10, 12, even 15 years of experience and who are as capable of conducting skill training as any professional. I believe some allowances should be made in this area to provide the best, most quickly accessible training to new staff. Perhaps a delegation process where the professional delegates the responsibility to a person they have trained and have oversight, much like nursing delegation.	<p>This requirement assumes professional level knowledge and experience and provides an opportunity for skill training if necessary that is only allowed by the qualified professional.</p> <p>This quarterly rule requirement has been in place. The L&C team only defined this requirement. Previously 302.03 of current rule.</p> <p>The para's, houseleads, etc. may monitor the day to day activities and report back to the professional and then the Professional would conduct quarterly visits to ensure services are implemented as authorized on the plan of service.</p>	
W	202.04.d.ii	Participant satisfaction. Why does this need to be done by the professional? Again taking time away from data review, program changes, observations on the floor etc.	Removed from professional requirement and moved to 202.03.h to be conducted annually instead of quarterly.	
W	202.04.d.ii	Why can't this be delegated to another member of management? This takes away from the Q's job of program changes, oversight, and obs.	Removed from professional requirement and moved to 202.03.h to be conducted annually instead of quarterly.	
W W	202.04.d.ii.	See comments associated with .202.04. The provider agreement requires quarterly satisfaction surveys. This rule technically requires them "continuously" (or at least some method to ensure that the participant is "continuously" satisfied). All supervisory, QA, administrative, and technical elements need to be reconciled against one another.	Removed from professional requirement and moved to 202.03.h to be conducted annually instead of quarterly.	
W	202.04.d.ii	Does this have to be done by the professional?	Removed from professional requirement	

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			and moved to 202.03.h to be conducted annually instead of quarterly.	
W W	202.04.d.iii	Monitoring of participant progress. It appears that the duties for the professionals are being increased considerably. We must discuss ratios and have the increases put into the study. WHO PAYS FOR THIS INCREASE IN DUTIES RESPONSIBILITIES?	This is a clarification to what is currently 400.01 & 02.k and not a new requirement.	
W W	202.04.d.iii.	See comments associate with .202.04. Professionals generally document changes using computers and other technology. By requiring them continuously onsite, they will not be able to utilize tools to document those changes. It is also important to observe that making changes oftentimes requires PCP involvement, addenda, new services, and the work of a plan developer. To place the burden of the changes on the reshab provider is unrealistic and improper. There needs to be a mechanism to allow the provider amend the plan for any changes to supports and services elements and otherwise skirt coordination with the PCP if the compliance responsibilities are on the reshab provider.	See above comments.	
W	202.04.d.iii	Add “for” instead of “when” progress, regression...	Correction made.	
W	203. .03 Direct Service Staff	Direct Service Staff. It currently takes us two weeks to sign someone up for first aid/cpr...any chance you would consider instead of the original 90 days, make it 30 days, instead of prior to starting? Sometimes staff just quit and we already have to cover and scramble to hire additional staff. This would really impact, how much our current staff are already working overtime.	Considered, but too much potential health and safety risk and non-compliance in this service delivery.	
W W	203.03	CPR prior to working with participants should only be if they are the only person with the participant. If there is a trained person in the building it would make sense to change this to a 30 day period in order to allow the agency to have the training completed. I maintain that this should be continued but with a 30-day compliance period as long as there is a certified staff on premises.	Considered, but too much potential health and safety risk and non-compliance in this service delivery.	

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W	203.04	Please consider allowing communicable diseases depending on what it is and the use of universal precautions. We had a participant with Hepatitis and it wasn't disclosed at first, we only found out because she told us. We were told she didn't have to disclose it, that it was her right to keep confidential. We made sure all staff continued to use universal precautions. Hepatitis and Herpes are examples we came up with, as we have participants diagnosed with currently. Tried researching under ADA and it appears we cannot discriminate? What if their doctor designates that they are not airborne contagious and precautions can be used?	This rule addresses employees only. The intent is to have the employee state he/she is free of communicable diseases while on duty to protect the participant from contracting the disease. As you stated the use of universal precaution is expected to prevent the spread of a disease.	
W W	203.04	There are labor laws the prevent a reshab agency from discriminating the employment with someone with a communicable disease. This archaic and impossible employee and participant protection requirement needs to be removed or the Department of Labor needs to provide consultation on the allowable means by which a provider may terminate or refuse employment of a staff who happens to disclose a communicable disease, even a common/harmless one. This rule as it stands sets providers up to lose litigation by employees claiming discrimination.	This rule has been in place and has not been added. The rule is not intended to violate the employee's privacy it is intended to protect the participant from contracting a communicable disease.	
W	203.04	"Documentation...while on duty." How would we document every day? How would we check? Could the requirement be that any staff with a communicable disease be required to call in to their supervisor? That is the current protocol, and we could develop the documentation.	The intent is to have the employee state he/she is free of communicable diseases while on duty to protect the participant from contracting the disease. This is not intended to be a daily check.	
W W	203.07	Job Description. From a particle sense, no one begins doing this job "understanding the duties of their job. They may understand the tasks but understanding the duties and how to work with each individual as a relationship is developed. For that relationship to develop staff must stay for a considerable length of time in their position. Better wages	This rule has been changed from "duties" to "requirements of his position".	

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		would help this considerably.		
w	203.07	I have concerns for personnel being asked to sign the job description stating he or she understands the duties of his/her position. I recommend replacing it with an acknowledgement that they received the job description.	This rule has been changed from “duties” to “requirements of his position”.	
W	203.07	“...stating he UNDERSTANDS the duties....” The signed job description is to be kept in their file, but when they sign, I question whether or not they understand the duties at that time, can there be a time frame? A signed Job Description that states he understands ...within 30 days of hire?	This rule has been changed from “duties” to “requirements of his position”.	
W	204. Staff Residential Habilitation Provider Training	Do we want a signed form from the employee stating they received the training?	This is included in 204 as “documented in record”.	
W	204	<p>We hire entry level employees, which often means no HS diploma, a GED or only a high school education with no potential for further education for various reasons. Training by company professionals is an important thing for client specific management, participant rights and PIP's.</p> <p>However it might be a good idea to include a continuing education requirement for SL staff similar to the requirement required in certified family homes. CFH providers are required to have 8 hours (soon to be 12, I hear) of unique continuing education (any topic in the health care field) every year. Some independent study is allowed (reading) but some in-class training is also required. Our work in SL is just as much in need for a rising tide of understanding of disorders, technology and methodology. Even the really big companies can not claim to have on staff individuals who are qualified to train on more than just a narrow field of study. Would satisfy the training requirement and the desire by the department to have better care providers. Would also help providers justify the rate of pay we need to offer in order to hire and retain good staff.</p>	Thank you for your recommendation, it appears as your agency goes above the minimum requirements, which is commendable. The training requirements listed are those that your agency must provide documentation of when requested.	

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		I can hear my fellow SL providers crying now about time and cost, but I can tell you this would be completely possible within the confines of my budget and it would greatly benefit ME as well as the participants. COMPETENT employees are worth their weight in gold. It would take the responsibility off of the over worked PC/QIDP employees and put it on the Administrators to find and fund training programs and reading materials. Paperwork would only be one more page in the employee file saying that they did "this this and this" = 8 hours this year. CPR, could count for 2 of those hours (every other year) and Med Cert could count as 4 (every 5 years).		
W W	204	The element of the new rule that require the training materials must be available to the Dept is unnecessary and stifles the innovation and creativity for the provider's unique approach to treatment the instant and IDHW reviewer has an opinion on the training content. The reality is that each agency's training needs are unique to the agency. Unfortunately, the requirement to make the materials to IDHW will standardize the material to the subjective liking of the IDHW reviewer with no direct appreciation of the needs of the staff and the agency. This rule simply needs to state that the training materials need to coincide with the training categories in the various rules sets (which must match and complement one another without conflict).		
W	204	Training is provided in many forms – and, often, training occurs from professional supervision in a live format – this does not necessary require “materials”. We are concerned for all “training,” that the Department will only authenticate “training” if materials are produced. This is highly concerning in regard to training that is provided via modeling; live professional intervention or consultation; etc.	Removed “materials” from this rule to allow for flexibility in design and delivery of training.	
W	204.01.	This rule stipulates the training categories that must be	We have incorporated the training	

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W		trained prior to working with participants. However, there may be other categories in 16.03.10.705.01.c-.d that aren't required, necessarily, prior to working with participants. Training rules must all be in the same location and require the same criteria as to when the training must be completed. Varying the requirements for the completion of the training could make the staff "unqualified" in the eyes of MPIU and cause recoupments and/or CMPs. All of the rules need be uniform and consistent.	components from 16.03.10.705 to this section of rule. The intention of this rule change is to clarify the training specific needs of the participant prior to working with the participant. This change was intended to make the training requirement easier for the provider to conduct training up front and annually thereafter.	
W W	204.01.a-k.	All of the rules that require securing health and safety and those that speak of ensure rights, need to be reconciled. All of the rules carry the same weight and there are not any that carry more prominence than others. The reality is that rights and safety are in philosophical conflict with one another. IDHW needs to ensure that all rules are not cherry picked during survey or investigation to sensationalize the conclusion that a provider didn't adequately serve the participant. There are as many, if not more, rules about participants' rights as there are about safety and consideration needs to be contextualized consistently.	This comment does not appear to coincide with the stated rule, unsure how to address this.	
W	204.01.g	General terminology has changed to Standard Precautions from Universal Precautions. Would that make a difference here?	At this time will leave the rule as Universal Precautions.	
W W	204.01.k.	There is not functional benefit to require the professional to render the training specific to the needs of the participants. See comments about the workload of the professional in these new rules and the comments about allowing the professional the discretion to utilize the decision-making model defined in 23.01.01.400 in executing all the professional's training and supervision responsibilities. Otherwise, there will be too much strain on professionals and cause perpetual noncompliance. While well-intentioned, this rules unnecessarily binds the professional to solely complete these elements when there are capable other staff that, while under the delegation of the professional, can more than sufficiently complete the requirements.	Please see above under Professional	

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W	204.01.k	Same comment as written in 202.04.i. - In many agencies, there are mid-level staff such as Lead Workers or supervisors who are not Professionals that have 10, 12, even 15 years of experience and who are as capable of conducting skill training as any professional. I believe some allowances should be made in this area to provide the best, most quickly accessible training to new staff. Perhaps a delegation process where the professional delegates the responsibility to a person they have trained and have oversight, much like nursing delegation.	Please see above under Professional	
W	204.02 Annual and Ongoing Training	The annual and ongoing training. I think 8 hours is a good number and maybe through the word documented in there somewhere.	Added recommendation “all training must be documented”	
W	204.02	This needs clarification regarding what is formal training. Does this include the CPR and First Aid? Mandt? Medical Assist? Participant specific?	Removed “Formal” from this section.	
W	204.02	Question. Does it matter at all if we have CPR certification from the Red Cross or the AHA.	No, but the CPR needs to have an expiration dated and for the population served.	
W W	204.02	Keep this rule and remove the requirement for monthly staff meetings.	See revisions to Administrator requirements listed above.	
W	204.02	As to the eight hours of training established as the minimum, I would recommend this not be increased. I believe this is reasonable but it has risks associated with MPIU as well as adds cost to the administrative level layer of operations (of which there is no increase in reimbursement associated).	This is a consolidation of training rules into one location. As for the 8 hours, the training categories are the same we have added the 8 hour requirement. Based upon survey of agencies most agencies have well over 8 hours of training. We are unable to address the MPIU risks as this would need to be addressed with MPIU.	
W W	204.02	This rule implements the requirement of providing an 8 hour minimum for training each calendar year. Much like DDA, this rule when linked to the calendar year, sets the provider up for deficiencies, recoupments, and CMPs if 8 hours are not completed by December 31 of each year. If a provider hires employees in December, for example, they must complete all of the training by the close of the year or suffer consequences. This rule needs to be modified to take	The intent of this rule is to ensure the staff receives training prior to working with the participant and then training thereafter. If training is conducted prior to working with the participant this should meet the 8 hours of training.	

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		the operational and practical obligations into account. Also, the 8 hour requirement is arbitrary from CFH rules. IDHW may unintentionally reduce the amount of training that occurs by stipulating 8 hours as significant training currently occurs. I recommend removing the 8 hour requirement. There last sentence of the rule states, “The provider agency will be responsible for providing ongoing training specific to the needs of the participant...” and conflicts with .204.01.k that states the “professional” is required to do it. There is a logical conflict in the last sentence by stating that the training needs to happen “ongoing”, but also allows for it “as needed”. The more requires constant training and the latter allows discretion. I recommend cleaning up the language to allow for discretion.		
W	204.02	Keep this rule and remove the requirement for monthly staff meetings.		
W	204.02	My Thought: I like this! Orientation has specific topics and then we can use ongoing training for client specific and other needs. This was a great change. Suggestion: This is good	Thank you for your comment.	
W	204.05 Review of Services (removing this rule)	SUBMITTER experience with individuals receiving supported living services indicates little to no education for direct care staff about nutrition and safe food handling techniques. SUBMITTER recommends adding both training requirements for direct care support workers.	Thank you for the recommendation, the L&C rules include training specific to the needs of each participant; and clean, safe and healthy environment.	
W W	300.01 Policies and Procedures. Scope of Services and Area Served.	This rule requires the agency to clearly define the scope, but “clearly” is subjective. Considering that the manual has to approved by the governing authority, the definition of “clearly” becomes consequential to compliance. This rule is unnecessary and not useful. I recommend that the control of “clearly” be removed from the subjective reader of the manual.	Removed “clearly” from this rule.	
W	300.02 Policies and Procedures. Acceptance	What exactly does this mean??? Are you trying to say that the agency must have acceptance criteria?	Per comment, added to the clarity for this requirement.	

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	Standard.			
W W	300.03 Policies and Procedures. Participant Records.	Participant Records. Define integrated.	Removed “integrated” in this rule section.	
W	300.03	I do not have a recommendation, I simply ask for clarification as to what integrated record system is defined as and the intent.	Removed “integrated” in this rule section.	
W	300.03	What does integrated mean in this rule?	Removed “integrated” in this rule section.	
W	300.03	Participant Records. “Each agency must have an integrated participant records system...” What is this?	Removed “integrated” in this rule section.	
W	300.04 Policies and Procedures. Required Services.	Required Services. What about referring to 16.03.10.313 section for those on HCBS services?	Our intention is to not be payer specific.	
W	300.04	I have concerns regarding several of the sub-sections for this area. One example: I am not clear without a definition of “Socialization training does not include participation in non-therapeutic activities which are merely diversional or recreational in nature” Residential Habilitation takes place in the participant’s home and community, recreational activities are the right of the individual to choose and it is the responsibility of the personnel to provide socialization training to the participant. What is the definition of “merely diversional” I recommend removing these references. Socialization training should include any activity a participation receiving services wishes to engage. In these changes the services become more prescriptive and are more reflective of active treatment which is not part of the waiver services. I recommend discussing options with IACP as well as other providers/advocates to determine what skills training would encompass, how it would be completed as address other components connected with this topic.	These requirements are not new, only transferred to L&C’s rule set to be independent from payer source.	

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W W W	300.04	These 3 changes in this section appear to add several sub-categories of assessment such as dangerous or life threatening situations under self-direction, identifying specific training activities necessary to assist the participant to continue to participate in such activities in the section of Socialization, enhancing movement with the person's living arrangement under mobility. In addition, there are requirements to train family members, roommates or neighbors which does not currently occur and if required will need additional professional staff to accomplish these added requirements. Question, How are we to accomplish assisting a person in participating in activities if on the same hand the rule states that this training does not include participation in non-therapeutic activities which are merely divisional or recreational in nature? DDA rules should not be put into supported living and supported living should not move towards active treatment. That is what folks waived by choosing the waiver over institutional care. This section needs to be re-written with the assistance of both the provider community and advocacy groups. There are multiple issues in this section of health and safety versus participant choice and rights. This section needs some revisions with that input.	These requirements are not new, only transferred to L&C's rule set to be independent from payer source.	
W W	300.04	This rule requires a new assessment that is unfunded by IDHW. New and/or enhanced requirements for assessments with reshab must have mechanisms for funding. Otherwise, the new and enhanced assessments must be built into the current (or new) rate study to account for the cost of completing them in the reshab rates. Presently, they are not. I recommend removing all references to new and enhanced assessments that are unfunded or not built into the reimbursement rate structure. This rule also needs to be reconciled against 16.03.10.703.01.	These requirements are not new, only transferred to L&C's rule set to be independent from payer source.	
W W	300.04.a.i-viii	These definitions do not precisely match the definitions in 16.03.10.703.01.a-c and the subparts of them. I recommend that the language match exactly in order for the	These requirements are not new, only transferred to L&C's rule set to be independent from payer source.	

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		provider to be able to implement the standards uniformly for Medicaid and L&C. Not to mention the MPIU liabilities with conflicting or different language in one rule set to another.		
W	300.04.a.i-viii	<p>These changes in this section appear to add several sub-categories of assessment such as dangerous or life threatening situations under self direction, identifying specific training activities necessary to assist the participant to continue to participate in such activities in the section of socialization, enhancing movement with the person's living arrangement under mobility. In addition, there are requirements to train family members, roommates or neighbors which does not currently occur and if required will need additional professional staff to accomplish these added requirements.</p> <p>How are we to accomplish assisting a person in participating in activities if on the same hand the rule states that this training does not include participation in non-therapeutic activities which are merely divisional or recreational in nature? There are multiple issues in this section of health and safety versus participant choice and rights. This section needs some revisions.</p>	<p>These requirements are not new, only transferred to L&C's rule set to be independent from payer source.</p> <p>Removed "participants family members, alternative family caregiver(s), or a participant's roommate or neighbor" <u>and changed to conducted by direct care staff.</u></p>	
W	300.04.a.iv	<p>"Socialization training does not...non-therapeutic activities which are merely diversional or recreational in nature." And why not? The maladaptive behaviors still occur there, the need for social skills occurs there, and that is the "natural" place to practice manners, building relationships, how to wait your turn, how to find the bathroom in a new place, practice endurance with people who may be annoying but you can't leave.... That's where everyone learns socialization! Perhaps conditions should be made that a program must be conducted while doing the activity to justify being there.</p>	<p>These requirements are not new, only transferred to L&C's rule set to be independent from payer source. These sections are specific to the authorized plan of service and are "aimed at assisting the individual to acquire, retain, or improve his ability to reside as independently as possible in the community or maintain family unity. Habilitation services include training in one (1) or more of the following areas..."</p>	
W	300.04.a.iv	<p>My Thought: This is 24 hour care. This is real life, not facility life. Training takes place all the time. I don't feel having to schedule social time is appropriate for supported living.</p>	<p>These requirements are not new, only transferred to L&C's rule set to be independent from payer source. These sections are specific to the authorized plan</p>	

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		Suggestion: Take out the last sentence. “Socialization training does not include participation in non-therapeutic activities which are merely diversional or recreational in nature”	of service and are “ aimed at assisting the individual to acquire, retain, or improve his ability to reside as independently as possible in the community or maintain family unity. Habilitation services include training in one (1) or more of the following areas... ”	
W	300.04.a.viii	Once again, I don’t think it is our job to teach informal supports what we are to do.	Removed “participants family members, alternative family caregiver(s), or a participant's roommate or neighbor” <u>and changed to conducted by direct care staff.</u>	
W	300.04.a.viii	Doing the skill for the person as opposed to teaching the skill to the participant?	Removed “participants family members, alternative family caregiver(s), or a participant's roommate or neighbor” <u>and changed to conducted by direct care staff.</u>	
W	300.04.a.viii	The way this is worded infers that providers should train the entire neighborhood around the participants home. It would better be worded to state that the agency should provide training to anyone identified on the plan of care that all parties have agreed to follow.	Removed “participants family members, alternative family caregiver(s), or a participant's roommate or neighbor” <u>and changed to conducted by direct care staff.</u>	
W	300.05 Policies and Procedures. Participant Safety.	Participant Safety. Recommend adding responsible party for overall accountability within the assessment	When the agency conducts the functional assessments the safety risks can be addressed and if necessary develop and implementation plan. This would be conducted by the Professional which is already addressed within the rules under Professional.	
W	300.05	I recommend removal of assessing the structural risks to the participants. These are not provider owned structures, and Residential Habilitation providers are not building inspectors. This is not a liability we should be asked to take on unless we were able to lease provider owned property. I also suggest changing “how those risks will be reduced or eliminated”. There may be situations when we can make suggestions and advocate with a participant and/or guardian as well as their treatment/support team. However, we cannot be held	When the agency conducts the functional assessments the safety risks can be addressed and if necessary develop and implementation plan. This would be conducted by the Professional which is already addressed within the rules under Professional. Participant Safety was not intended to address provider owned property, the risk	

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		responsible over which we have no control. The participant has the right to choose their own environment.	assessment was intended to address the participant's needs. Such as elopement, falls, behaviors, etc.	
W W	300.05	As mentioned above, finding handicapped accessible housing in the community is virtually impossible especially within the limits of the income available to the people we support. Some of these structural risks are outside the control of the provider and living in the community comes with some inherent risks. Often risks are not identified until after the accident occurs. For example one can break ribs or a shoulder playing baseball while sliding into second base. It would be easy with the benefit of hindsight to cite agency for in the area of participant safety for simply assisting a person in living the life they have chosen to live.	When the agency conducts the functional assessments the safety risks can be addressed and if necessary develop and implementation plan. This would be conducted by the Professional which is already addressed within the rules under Professional. Participant Safety was not intended to address provider owned property, the risk assessment was intended to address the participant's needs. Such as elopement, falls, behaviors, etc.	
W W	300.05.	This rule requires a new assessment for participant safety that is unfunded by IDHW. New and/or enhanced requirements for assessments with reshab must have mechanisms for funding. Otherwise, the new and enhanced assessments must be built into the current (or new) rate study to account for the cost of completing them in the reshab rates. Presently, they are not. I recommend removing all references to new and enhanced assessments that are unfunded or not built into the reimbursement rate structure. Also, this rule is poorly contemplated in it assumption that it is possible to protect participants with dozens of rights and rules that protect their self-direction and decision-making. Safety measures for participants are dynamic and have changing risks. The definitions of safety are not objectively defined. The terms need to have measurable meaning that can actually be realized by providers considering IDHW's enforcement activities. The assumption that safety can be or even should be protected 24 hours per day for participants is somewhat ignorant to the nature of the service when compared to rules on self-direction, integration, and normalization. These impossible	When the agency conducts the functional assessments the safety risks can be addressed and if necessary develop and implementation plan. This would be conducted by the Professional which is already addressed within the rules under Professional. Participant Safety was not intended to address provider owned property, the risk assessment was intended to address the participant's needs. Such as elopement, falls, behaviors, etc.	

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		pressures have caused and will continue to cause distress for providers.		
W		Finding accessible housing in the community is virtually impossible especially within the limits of the income available to the people we support. Some of these structural risks are outside the control of the provider and living in the community comes with some inherent risks. Often risks are not identified until after the accident occurs. For example one can break ribs or a shoulder playing baseball while sliding into second base. It would be easy with the benefit of hindsight to cite agency for in the area of participant safety for simply assisting a person in living the life they have chosen to live.	<p>When the agency conducts the functional assessments the safety risks can be addressed and if necessary develop and implementation plan. This would be conducted by the Professional which is already addressed within the rules under Professional.</p> <p>Participant Safety was not intended to address provider owned property, the risk assessment was intended to address the participant's needs. Such as elopement, falls, behaviors, etc.</p>	
W	300.05	Participant Safety I think it is beyond our scope to assess structural safety of most buildings. Would it be better to word it more specific to places they should or should not go?	<p>When the agency conducts the functional assessments the safety risks can be addressed and if necessary develop and implementation plan. This would be conducted by the Professional which is already addressed within the rules under Professional.</p> <p>Participant Safety was not intended to address provider owned property, the risk assessment was intended to address the participant's needs. Such as elopement, falls, behaviors, etc.</p>	
W	300.05	A functional definition of environmental and structural risks needs to be included. Does this apply to every building in a community that a participant accesses? If so, it is a near impossible feat.	<p>When the agency conducts the functional assessments the safety risks can be addressed and if necessary develop and implementation plan. This would be conducted by the Professional which is already addressed within the rules under Professional.</p> <p>Participant Safety was not intended to</p>	

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			address provider owned property, the risk assessment was intended to address the participant's needs. Such as elopement, falls, behaviors, etc.	
W	300.06 Policies and Procedures. Emergency Care.	My Thought: This section feels more like a disaster emergency. Suggestion: Rename it: Disaster/Emergency Care	Per recommendation changed to "Disaster/Emergency Care"	
W W	300.06	Emergency Care. This is an institutional requirement who of us living in the community have these?	According to National Emergency Preparedness everyone should prepare for a Disaster/Emergency.	
W		This sounds more of an institutional necessity. I recommend removing this from rule as it should be addressed in the Person Centered Planning process and individualized.	According to National Emergency Preparedness everyone should prepare for a Disaster/Emergency.	
W W	300.06	This rule is in strange conflict to the philosophy of reshab in that the participants reside in their own homes and the agency simply provides staffing support. In order to operationally comply with this rule, the agency will need to implement escape plans, fire extinguishers, fire drills, post warnings in the homes, implement inspections of the homes, etc., etc. Additionally, in order to safely preserve the emergency care of the participant, this rule will obligate the agency to contract with specialized professionals who can inspect and verify that the situational and environmental emergencies are adequate. For example, no agency will want to assume the liability of determining that an environmental or situational emergency is safe without proper expertise or licensure. This rule needs to be modified to not reflect institutional control of the environment by the reshab provider and should abide by the spirit that the participants reside in their own homes and that inherently carries risk of emergency. This rule will also stress the financial resources of the participants and agencies alike in order to reduce situational and environmental risks. Regulations such as this should be	According to National Emergency Preparedness everyone should prepare for a Disaster/Emergency.	

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W = Written Comment Submitted	Rule (16.04.17.-)	Comments	Responses	Policy Change
		removed.		
W W	300.07	This rule conflicts with itself in that it identifies that the agency must indicate the content of their administrative record, but then prescribes the content in the rule and in .300.07.a-c. The agency needs to be allowed the discretion to organize its own records or IDHW needs to remove that and simply dictate the content. The conflict is confusing and problematic.	Per comment removed sections that were duplicative.	
W W	300.08 Policies and Procedures. Personnel.	This rule requires that the agency maintain employee documentation for 1 year, but the provider agreement and other countless rules requires maintenance of all records for 5 years. The requirements must match in order to avoid causing MPIU recoupments and CMPs if a provider destroys employee records after 1 year after they are no longer employed.	Per comment removed the 1 year requirement and changed to 5 years.	
W	300.09 Policies and Procedures. Participant Rights.	Participant Rights. What about anonymous complaints? What about defining refusal of services?	Unable to address this comment, uncertain what is intended.	
W	300.09	Again, this sounds directed at an institutional setting:	These rights were added to give clarity to what the participants rights are and intended to ensure they are not in an institutional setting.	
W W	300.09	The department in conjunction with the provider industry and advocacy agencies to create a matrix helping delineate where health and safety or choice is the priority. In either case or the exact same situation, the agency is wrong by virtue of either restricting access/choice in the effort of eliminating the possibility of getting hurt or if someone gets hurt not protecting health and safety. Agencies should not bear the responsibility of making these choices alone.	The health and safety concerns should be addressed in the plan of service. Any restrictions of rights should be authorized by the professional working within the scope of his/her license.	
W W	300.09	300.09-See previous comments on removing DDA filler language from reshab. The addition of these DDA-type rules further complicates IDHW's desire to ensure safety with reality of participants' rights, right to refuse, privacy, personal choices, preferences, etc. of reshab participants. If	The health and safety concerns should be addressed in the plan of service. Any restrictions of rights should be authorized by the professional working within the scope of his/her license.	

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		included, IDHW must acknowledge the conflicting rules that may contribute to events in participants' lives and services.		
W	300.09.c	Being free from mechanical restraints is mentioned as a Participant right, but there is no mention of chemical or physical restraints. SUBMITTER recommends the inclusion of being free from chemical and physical restraints to the rule.	Mechanical has been removed from this rule and all included in 303.04.	
W	300.09.h	I do not believe a Residential Habilitation provider should be responsible to inform a participant of "his medical...condition" This is the attending physician or other medical professional's responsibility. I recommend removal.	Removed "medical and" from this rule section.	
W	300.09.j	Define what refusal of services means.	Services is defined in RH definitions. L&C's prevue it would mean documentation of refusing all RH services or portions of the services.	
W	300.09.h	Rather than "...medical and habilitative condition..." maybe reword to say, Inform of need for services based on assessment results?	Removed "medical and" from this rule section.	
W	300.09.l	Participant Rights--Privacy (l). "Privacy" is listed, but SUBMITTER recommends a more detailed explanation—such as "privacy, including ability to lock the bathroom and bedroom door and privacy during personal phone conversations, unless indicated on the ISP as being a threat to health and safety." SUBMITTER recognizes the rules are meant to be a guide, however, just stating "privacy" without any guidance leaves agencies to determine their own definition which may or may not be in the best interest of the Participant. Also noted within this section, "privacy and confidentiality" are lumped together under (l). These terms mean vastly different things and SUBMITTER recommends that confidentiality receive its own definition within the rules.	Thank you for the recommendation. Although at this time putting too much specificity may hinder other potential violations.	
W	300.09.m	The department in conjunction with the provider industry and advocacy agencies to create a matrix helping delineate where health and safety or choice is the priority. In either	The health and safety concerns should be addressed in the plan of service. Any restrictions of rights should be authorized	

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		case and the exact same situation, the agency is wrong by virtue of either restricting access/choice in the effort of eliminating the possibility of getting hurt or if someone gets hurt not protecting health and safety. Agencies should not bear the responsibility of making these choices alone.	by the professional working within the scope of his/her license.	
W	300.09.n	I recommend defining reasonable timeframe.	Per recommendation included “14 business days”	
W		What is a reasonable time frame?		
W	300.09.o	What does enhance the participant’s social image look like? How do we document? What if the enhancement of a person social image, e.g. someone is a good artist but in enhancing his personal image we are engaging in a purely diversional activity such as art class? I don’t think this is a measurable objective.	Per recommendation removed “social image”	
W	300.09.o	I have problems with directing that providers “enhance the participant’s social image” this is desirable for many people in society for family members, such as parents. However, there is a conflict with the participant’s rights. An agency can provide direction but the participant can choose how they behave, appear, etc. I recommend leaving this section out as it is addressed in skill training and required services.	Per recommendation removed “social image”	
W	300.09.o	What does enhance the participant’s social image look like? How do we document? What if the enhancement of a person social image, e.g. someone is a good artist but in enhancing his personal image we are engaging in a purely diversional activity such as art class? I don’t think this is a measurable objective.	Per recommendation removed “social image”	
W	300.09.o	Receive services through skills training that enhance...	Per recommendation removed “social image”	
W	300.09.t	Honoring a person’s choice and it being consistent with their well-being may not be possible. Discussions need to occur around this concept.	Per recommendation removed rule section “t” as these rights are addressed within the other rights.	
W	300.09.t	How would we prove or document this?	Per recommendation removed rule section “t” as these rights are addressed within the other rights.	
W	300.10 Policies and	Other than signing a free from communicable disease declaration, what are agencies to do? I cannot ask staff to	This section is addressing the agency policy on how the agency will prevent the spread	

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W W	Procedrues. Health	strip and prove that they have no open lesions. Define open lesions. Is a cut on my arm that looks like it is getting infected an open lesion? Could I work if I had that but it was covered during my shift?. Way too subjective. The agency cannot both protect participants from exposure to individuals exhibiting symptoms of illness other than staff. Living in community settings simply do not allow for living in a sterile environment. Remember, CMS requirements folks to have access to the greater community to the same extent as non-Medicaid people do Again Health and Safety sometimes is trumped by simply living life. Also, there are some diseases we are not allowed to ask about like HIV/AIDS...	of communicable diseases. The form could be part of your P&P's addressing the prevention.	
W	300.10 a-d	Our agency has concerns with how an agency is supposed to identify all communicable disease in employees; and, ensure that the staff is free of those communicable diseases?	This section is addressing the agency policy on how the agency will prevent the spread of communicable diseases. The form could be part of your P&P's addressing the prevention.	
W W	300.10.a-b.	There are labor laws the prevent a reshab agency from discriminating the employment with someone with a communicable disease. This archaic and impossible employee and participant protection requirement needs to be removed or the Department of Labor needs to provide consultation on the allowable means by which a provider may terminate or refuse employment of a staff who happens to disclose a communicable disease, even a common/harmless one. This rule as it stands sets providers up to lose litigation by employees claiming discrimination. This rule also adds “while on duty” while other references in the rule set about communicable disease do not. This inconsistency also needs to be corrected.	This section is addressing the agency policy on how the agency will prevent the spread of communicable diseases. The form could be part of your P&P's addressing the prevention.	
W	300.10.a	This is already mentioned previously.	This section is addressing the agency policy on how the agency will prevent the spread of communicable diseases. The form could be part of your P&P's addressing the prevention.	
W	300.10.b	This is problematic. First, we are not trained medical	This section is addressing the agency policy	

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		professionals to diagnosis someone as to having an illness or to determine if there is a risk of exposure. I recommend discussing options with IACP as well as other providers/advocates to determine what skills training would encompass, how it would be completed as address other components connected with this topic.	on how the agency will prevent the spread of communicable diseases. The form could be part of your P&P's addressing the prevention.	
W	300.01.b should this be 10.b?	“Describe how the agency will attempt to protect participants...” There is no way to guarantee we can protect anyone from exposure to illness in today’s world.	We believe this comment was for 300.10.b. This section is addressing the agency policy on how the agency will prevent the spread of communicable diseases. The form could be part of your P&P's addressing the prevention.	
W W	300.10.d.	See previous requirements on removing DDA filler language from reshab. The Adult DD Medical Care Evaluation should be sufficient to demonstrate the agency’s compliance to provide assistance with medications. Following up with the health care practitioners who have already completed the Medical Care Eval with an agency-specific procedure to obtain the same and additional information is unnecessary, redundant, and ineffective. L&C needs to reconcile all proposed rules and subsequent provider obligations with existing rules and processes of other divisions of IDHW.	The DD Medical Care Evaluation form is a Medicaid process that may not be in place for all participants and does not address accepted medication standard for assistance and administration of medications.	
W	300.11 Policies and Procedures. Transportation	Transportation. I do not have any specific recommendations. I do wish to establish these requirements are for company owned vehicles as those are the vehicles an employer have control/management.	The Preventative Maintenance Program rule is used to address all agency vehicles to transport. The Transportation Safety Policy addresses all employees that transport participants.	
W; W	300.11	See previous comments on removing DDA filler language from reshab.	The Preventative Maintenance Program rule is used to address all agency vehicles to transport. The Transportation Safety Policy addresses all employees that transport participants. As the RH employees transport participants on a regular basis there needs to be a transportation policy in place.	
W	300.11 a-e	Major concerns with the requirement that RH agency	The Preventative Maintenance Program rule	

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		provide preventative maintenance program(s) for employee vehicles – our insurance providers will not allow us to be responsible for maintenance of non-agency owned vehicles. The liability is too great. We can understand the need to ensure safe transportation – however, in most cases, agencies are not even being reimbursed for mileage within specific rates. Additionally, the burden is much more significant in regard to monitoring this area (with untrained employees) for larger agencies.	is used to address all agency vehicles to transport. The Transportation Safety Policy addresses all employees that transport participants.	
W W	300.11.a	Transportation. Are you talking about agency owned vehicles? Should read: “company owned vehicles...”Liability issues will be extremely costly and insurance companies will not allow. See our current policy attached.	The Preventative Maintenance Program rule is used to address all agency vehicles to transport. The Transportation Safety Policy addresses all employees that transport participants.	
W W	300.11.a	This rule is strange and saddles agencies with completing safety functions they are not qualified to conduct. In order to operationally comply with this rule, the agency will have to to contract with specialized professionals who can inspect and verify that vehicles are safe and adequate. For example, no agency will want to assume the liability of determining if a staff’s vehicle is safe without proper expertise or licensure. This rule sets providers up for litigation from it staff if the provider happens to determine their vehicle to be “safe” and something later malfunctions. RSAS, for example, requires this and intelligent providers refuse to do it. However, IDHW does not accept a provider willingly taking a “deficiency” they have cited and obligate the provider to develop a plan of correction or suffer more problems. This is highly problematic and regulations such as this should be removed.	The Preventative Maintenance Program rule is used to address all agency vehicles to transport. The Transportation Safety Policy addresses all employees that transport participants.	
W		We currently inspect staff vehicles, but are you wanting this on staff cars or company vehicles? Please clarify.	The Preventative Maintenance Program rule is used to address all agency vehicles to transport. The Transportation Safety Policy addresses all employees that transport participants.	
W	300.11.a	What is the definition of “regular” maintenance?	This would be for the agency to determine as the vehicles may require maintenance at	

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			different intervals.	
W W	300.11.b	Transportation. Again we need to work together to make objective measures that meets your transportations safety policy.	The second round of comment sessions will provide opportunity for further feedback.	
W W	300.11.e	Liability Insurance. I am unsure what you are expecting here. We are not insurance agents and would not be able to ensure the liability insurance carried legally binds the insurance company to your requirements. While I understand what you are trying to accomplish, it might be that this requirement will eliminate the ability for staff to use their vehicles. If that be the case and in light of the new CMS requirements of community access to the same extent the non Medicaid populations community access the community, costs for transportation will increase and should be included in the current rate study. Suggest further discussions with the trade assn. As with the auto inspection rule please see attached policy...	The rule has been revised to the following: If an agency employee transports participants, the agency must ensure that adequate liability insurance coverage meets the minimum liability insurance requirements under Idaho law.	
W	300.11.e	How is “adequate liability coverage” defined? What amount is that? This is referring to an umbrella policy that covers staff where their insurance stops?	The rule has been revised to the following: If an agency employee transports participants, the agency must ensure that adequate liability insurance coverage meets the minimum liability insurance requirements under Idaho law.	
W W	300.12 Policies and Procedures. Quality Assurance.	The provider agreement requires the quality assurance program to occur quarterly. The requirements of various rules sets need to be reconciled to match to avoid deficiencies from various deficiencies and MPIU problems.	Refer to section 405	
W	301.01.c Personnel Records.	So proof of a high school diploma or GED would have to be in the file?	We are not requiring that a high school diploma or GED in the record.	
W	301.01.j	Does the Medications certification expire? Why the word current?	Some Universities/Colleges have issued Medication Certificates that do have expiration dates.	
W	301.01.j	How is “Current” measured? I recommend changing this to completed Assistance With Medications certification and if	Some Universities/Colleges have issued Medication Certificates that do have	

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		expiration is applicable providing the current measurement as an addition.	expiration dates. If no expiration date, then the certificate is “current”.	
W	301.04??? (Uncertain if this is the correct citation)	This section is huge. I recommend discussing options with IACP as well as other providers/advocates to determine what skills training would encompass, how it would be completed as address other components connected with this topic.	Unable to address as there is no section 301.04. If this was intended to be 300.04 a.viii we made changes in this section.	
W	302. Medication Standards and Requirements.	Many of the requirement is this rule pertain to the physician. Agencies have no control over the physician and cannot make him write all of the necessary requirements in this section of rule. Physicians do not give me instructions on who to call if I don’t take my medications, emergency procedure have already been addressed in rule above, Are these instructions to be given by the physician to each direct care staff? How do we document?	Please see IDAPA 23.01.01 Nursing Rules under Delegation this addresses the requirements.	
W	302	My Thought: PRN medications are a part of supported living that, as an RN, gives me heartburn. There is a definite need to be very specific on how to handle PRN meds. Also, I have never had a physician that will not be specific with his instructions on a prn med. I know that was a comment from another agency. I tell the docs if there is not some sort of an instruction, my staff cannot assist with it. But, as needed, is not appropriate for a Res Hab setting, especially if the agency doesn’t have a medical person overseeing the use. Suggestion: My suggestion is: A PRN med must have physician instructions. Ex: 1 -2 tabs every six hours, up to 4 tabs in a 24hr period, for agitation, as needed. This should lessen the likelihood of over sedation. Having a script say: as needed, leaves it wide open for interpretation and abuse.	Thank you for the comment our interpretation is that you are in agreement with our recommendations. Per recommendation PRN has been included to section 302 and definitions.	

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W; W	302	See previous comments on removing DD filler language from reshab.	Thank you for the comment. Implement medication requirements will enhance participant safety.	
W W	302.01 Medication Standards and Requirements. Medication Policy.	See previous comments on removing DD filler language from reshab. This rule strangely removes the ability of the participant to safeguard their own meds. Participants should not be required by the agency (rules) to safeguard their meds. That is not “normalization”, frankly. Also, “documentation of training” must be allowed to be the certification for assisting with medications.	Thank you for the comment. Implement medication requirements will enhance participant safety. The agency’s Policies and Procedures should include what the agency’s process is for handling and safeguarding of medication. If the agency does not intend on assisting with medications, the agency Policy should address this. If it is individually determined within the plan of service that would be considered.	
W	302.02 - 05	<p>I would like to try to modify the proposed IDAPA 16.04.17 Rules Governing Residential Habilitation Agencies related to medications (16.04.17.02-05) so that the new rules resolve an on-going problem about assistance with PRN medications in the proposed rules.</p> <p>As Licensing and Certification is aware, there have been on-going concerns about the current interpretation of the rules related to PRN medications in 16.04.17, which result in poor medication practice and unnecessarily restrict the independence of participants to use PRN medications. This rule making will at last provide an opportunity for clarify the rules so that they better approximate best practice and allow participants of residential habilitation services to use PRN medications consistent with community standards.</p> <p>The primary problem is 16.04.17 fails to include the necessary definitions to support proper practice. The terms</p>	<p>Thank you for the comment. The rule refers to the agency developing and implementing policies and procedures addressing the Nursing Rules IDAPA 21.01.01. which includes the definitions you have addressed.</p> <p>Per recommendation PRN has been included to section 302 and definitions.</p>	

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		<p>“administration” and “assistance” with medications are technical terms in the Rules of the Idaho Board of Nursing (IDAPA 23.01.01), subsection 010 Definitions. However, without the proper technical definition, the word “administration” has been misapplied and erroneously used interchangeably with “assistance.” In medical practice the word “administration” requires a series of extensive assessments requiring specialized knowledge that is not consistent with the training Unlicensed Assistive Personnel receive.</p> <p>I propose adding the following four definitions to 16.04.17; two of the definitions are directly the Rules for the Idaho Board of Nursing. These definitions should allow for the proper interpretation of the existing rules in 16.04.17.</p> <p>Administration of Medications. The process whereby a prescribed medication is given to a participant by one (1) of several routes. Administration of medication is a complex nursing responsibility which requires a knowledge of anatomy, physiology, pathophysiology and pharmacology. Licensed nurses may administer medications and treatments as prescribed by health care providers authorized to prescribe medications.</p> <p>Assistance With Medications. The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a participant who cannot independently self-administer medications as outlined in IDAPA 23.01.01.490 “Rules for the Idaho Board of Nursing-Unlicensed Assistive Personnel (UAP).”</p> <p>If necessary, we could amend the definition for “Assistance with Medications” definition to reflect more of 23.01.01, Subsection 490 as follows to provide further clarity about the scope of practice allowed under 23.01.01 rules. The</p>		

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		<p>word “participant” replaces the rule’s use of the term “patient” otherwise the text is as stated in 23.01.01.</p> <p>Assistance With Medications. The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a participant (patient) who cannot independently self-administer medications. Where permitted by law, after completion of a Board-approved training program, unlicensed assistive personnel in care settings may assist participants who cannot independently self administer medications, provided that:</p> <p>a. A plan of care has been developed by a licensed professional nurse; and (7-1-96)</p> <p>b. The act has been delegated by a licensed nurse; and (7-1-96)</p> <p>c. Written and oral instructions have been given to the unlicensed assistive personnel by a licensed nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency; and (7-1-96)</p> <p>d. The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container or the medication has been removed from the original container and placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container. Inventories of narcotic medications must be maintained; and (7-1-96)</p> <p>e. Any medication dosages not taken and the reasons thereof are recorded and reported to appropriate supervisory persons; and (5-3-03)</p>		

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		<p>f. Assistance with medication may include: breaking a scored tablet, crushing a tablet, instilling eye, ear or nose drops, giving medication through a pre-mixed nebulizer inhaler or gastric (non-nasogastric) tube, assisting with oral or topical medications and insertion of suppositories. (7-1-96)</p> <p>g. Prohibitions and Limitations. Unlicensed assistive personnel are prohibited from performing any licensed nurse functions that are specifically defined in Section 54-1402 (b), Idaho Code. (5-3-03)</p> <p>i. Unlicensed assistive personnel may not be delegated procedures involving acts that require nursing assessment or diagnosis, establishment of a plan of care or teaching, the exercise of nursing judgment, or procedures requiring specialized nursing knowledge, skills or techniques. (5-3-03)</p> <p>ii. Examples of procedures that should not be delegated to unlicensed assistive personnel include, but are not limited to: (5-3-03)</p> <p>a. Sterile procedures; and (5-3-03)</p> <p>b. Preparation or administration of injections; and (5-3-03)</p> <p>c. Start, stop or adjust any IV therapy; and (5-3-03)</p> <p>d. Oxygen adjustment without clear direction from a licensed nurse; and (5-3-03)</p> <p>e. Nasogastric tube feedings or medication administration; and (5-3-03)</p> <p>f. Mixing or compounding medications; and (5-3-03)</p> <p>g. Prepare, apply or adjust intermittent positive-pressure breathing machines;</p> <p>h. Assisting with either the preparation or administration of non-routine medication and</p> <p>i. Any act not consistent with IDAPA 23.01.01.490</p> <p>Chemical Restraint. A chemical restraint is the use of a single dose of a psychotropic medication to prevent an</p>		

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		<p>individual from harming himself or herself. A chemical restraint requires a doctors order and a nursing assessment prior to each stat dose and typically requires administration by a licensed practitioner.</p> <p>PRN (Pro Rata Nata) medication. A PRN is a medication that is given “as needed” or “as the circumstances warrant” to treat a symptom of a medical or psychiatric condition that has a periodic, episodic or breakthrough presentation. The assistance with medications for PRN medications must be providing as outlined in IDAPA 23.01.01.490 “Rules for the Idaho Board of Nursing-Unlicensed assistive personnel (UAP).”</p>		
W W	302.02.b.	See previous comments on removing DD filler language from reshab. This rule of supporting he evidence of the written order does not include blister packs or other similar system. Rules should match.	Per recommendation this section has been changed to add “Mediset, blister pack or similar system.	
W; W	302.02.c.	See previous comments on removing DD filler language from reshab. Requiring reshab participants to allow the agency to safeguard the medications is not “normal”. Also, the participant is never “...at the agency”. There is not facility or agency location.	Per recommendation removed “while the participant is at the agency or in the community” and added “when assuming the responsibility for assisting with medications”.	
W W	302.03 Medication Standards and Requirements. Self- Administratio n of Medication	Many of the requirement is this rule pertain to the physician. Agencies have no control over the physician and cannot make him write all of the necessary requirements in this section of rule. Physicians do not give me instructions on who to call if I don’t take my medications, emergency procedure have already been addressed in rule above, Are these instructions to be given by the physician to each direct care staff? How do we document?	It is the agency’s responsibility to get the statement of ability to self-medicate from the Physician.	
W	302.03	Do agencies need a different form indicating the participant’s ability to self-administer medication?	If currently have the DD Med Care Evaluation form and it states the individual has the ability to self-administer medications and the physician has signed it that would be sufficient. Agencies would need something similar for non-Medicaid payers.	

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W	302.03	For PRN medications a written plan of administration approved by the physician, nurse or pharmacy: This would ensure that both OTC meds and PRN medications would not interfere or interact adversely with regularly scheduled medications.	Per recommendation PRN has been included to section 302 and definitions.	
W W	302.03-.05	See previous comments on removing DDA filler language from reshab. The Adult DD Medical Care Evaluation should be sufficient to demonstrate the agency's compliance to provide assistance with medications. Following up with the health care practitioners who have already completed the Medical Care Eval with an agency-specific procedure to obtain the same and additional information is unnecessary, redundant, and ineffective. L&C needs to reconcile all proposed rules and subsequent provider obligations with existing rules and processes of other divisions of IDHW.	It is the agency's responsibility to get the statement of ability to self-medicate from the Physician.	
W	303. Policies and Procedures regarding Development of Social Skills and Management of Maladaptive Behavior.	Recommend adding health and safety to header and define maladaptive behavior	Unable to address this comment, how would the changes would be beneficial?	
W	303.	Currently, evaluations are unfunded. Adding more required evaluations should allow for billing units similar to DD services.	The currently required Functional Assessment would address this section.	
W	303.01 or 02	Recommend adding language around documentation of least restrictive alternatives and alternatives used as prior method perhaps in the form of a hierarchy	The currently required Functional Assessment would address this section.	
W W; W; W	303.01	Is this in addition to the functional assessment or a part of? If it is in addition, who is qualified to assess? How do we build this into the Q's already busy requirements? If you want the behavioral assessment to be done by a licensed	The currently required Functional Assessment would address this section.	

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		psychologist then this can be billed on his Medicaid card if we do it in house additional costs will be associated with the additional work.		
W	303.01	There are a myriad of things which, I recommend discussing options with IACP as well as other providers/advocates to determine what skills training would encompass, how it would be completed as address other components connected with this topic. This is a new and added evaluation, there are issues regarding qualifications, necessity, as well as MPIU risks associated.	The currently required Functional Assessment would address this section.	
W W	303.01	See previous comments on removing DDA filler language from reshab. This rule requires a new assessment to essentially every reshab participant that is unfunded. New and/or enhanced requirements for assessments with reshab must have mechanisms for funding. Otherwise, the new and enhanced assessments must be built into the current (or new) rate study to account for the cost of completing them in the reshab rates. Presently, they are not. I recommend removing all references to new and enhanced assessments that are unfunded or not built into the reimbursement rate structure.	The currently required Functional Assessment would address this section.	
W	303.01	My Thought: This appears to be another assessment you want agencies to produce. It is unfunded and again too much for a Q to take on Suggestion: Delete this line item	The currently required Functional Assessment would address this section.	
W	303.02.f	Recommend changing “whenever possible” to “the best of their ability”	Per recommendation removed “whenever possible” and added “to the best of their ability”	
W	303.02.f	HCBS states the participant must be involved. I’m not sure we want to give the agency the “whenever possible” out.	Per recommendation removed “whenever possible” and added “to the best of their ability”	
W	303.02.h	Is approval by the participant, their guardian and person centered planning team (TSC/PD)	Please see section “g” which already addresses the participant or guardians consent.	
W	303.02.h	Recommend adding a “i” section to state behavior intervention plan would be reviewed at regular intervals for effectiveness and or removal	This is addressed under progress and the status review.	

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W W W	303.02.h	What licensed individual are you talking about PHD LSW? It must be clear who is eligible to develop these programs if restrictive in nature.	Any licensed individual working within the scope of his/her license such as Licensed Psychologist, Physician, Psychiatrist, etc.	
W W	303.02.h	See previous comments on removing all DDA filler language from reshaped. This rule requires review and approval of a restrictive or aversive elements from a licensed professional. This requirement disables the provider from being able to secure the safety of the participant which appear to be at a premium of IDHW. As such, the provider, due to circumstances outside of its control, cannot implement the supports to meet the need of the participants. This dramatically escalates the risk to the participant and sets up the likely complaint, investigation, and deficiency rendered by IDHW. If an agency is expected to comply, IDHW must extend full authority to execute the functions of compliance without reliance on another provider. This rule will guarantee the provider's noncompliance until review and approval of the licensed professional is obtained and needs to be removed.	Section 303.04 addresses this concern.	
W	303.02.h	What are restrictive and aversive components? What about approved Mandt restraints? What about emergency situations where the safety of the participants or others is concerned?	Please refer to section 303.04.	
W	303.03.d	Appropriate.... d. What is the difference between untrained and unqualified staff?	An example of untrained could be someone that has not been trained how to deescalate the situation prior to using restraints. An example of unqualified would be an individual using MANDT techniques and not certified to do so.	
W	303.04	I would like a much more clearly identified definition of chemical restraint. In ICF/ID in the distant past there was confusion in this area which lead surveyors to question if anti-depressants ordered to treat depression needed to have a written behavior plan even though the person did not display significant maladaptive behaviors and if there	This rule has been changed to “Any drug that is used for discipline or convenience and not required to treat medical symptoms.”	

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		wasn't a behavior plan would they be considered chemical restraints.		
W	303.04	Does “no restraints” include the use of a prescribed PRN medication?	This rule has been changed to “Any drug that is used for discipline or convenience and not required to treat medical symptoms.”	
W	303.04.a	Chemical Restraint. A chemical restraint is the use of a single dose of a psychotropic medication to prevent an individual from harming himself or herself. A chemical restraint requires a doctor's order and a nursing assessment prior to each stat dose and typically requires administration by a licensed practitioner.	This rule has been changed to “Any drug that is used for discipline or convenience and not required to treat medical symptoms.”	
W	303.04.d	Seclusionary Time Out should never be used unless it is the voluntary choice of the participant and has all necessary approvals by guardian, family, and treatment team.	Thank you for your comment.	
W W	400. Participant Records Requirements.	I don't see the reason for this requirement. Choices interest and needs change on an ongoing basis. They type and amount of service can change from day to day. Signatures by direct care staff will make billing sheets very busy and add to the probability for error. I am unsure why this would be necessary for a person in 24 hours of care.	Per recommendation removed this section of rule “Each participant record must support the individual's choices, interests, and needs that result in the type and amount of each service provided.” “Each signature must be accompanied both by credentials and the date signed”.	
W W	400	This rule should match the requirements for documenting services as found in 16.03.10.704. This rule references the reality that the provider must support the choices, ultimately, of the participant. At times, this may put the participant at risk and this must be included in the context of the provider's services when surveyed or investigated by IDHW. The correlation to the requirement that the record must support choices, interests, and needs to the type and amount of services it strange as it seems to imply a formula for computing type and amount of services through choices, interests, and needs in some algorithmic fashion. DDA documentation requirements should not be added to reshab such as the credential of the paraprofessional who provided the service.	Per recommendation removed this section of rule “Each participant record must support the individual's choices, interests, and needs that result in the type and amount of each service provided.” “Each signature must be accompanied both by credentials and the date signed”.	
W	400	Participant Records. It seems like a lot of unnecessary work	Per recommendation removed this section	

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		to include credentials on every entry on a participant record. In fact, credentials should be documented in the participant record books and serve the same purpose.	of rule “Each participant record must support the individual’s choices, interests, and needs that result in the type and amount of each service provided.” “Each signature must be accompanied both by credentials and the date signed”.	
W	400.01 Profile Sheet	The profile sheet-everything on there is fairly static except current medications, which do change and would require that the profile sheet be updated regularly. One option I thought of would be to say “an attached list of current medications”. We have a 90 day med review document that outlines all current meds that would work real well.	Per request this section has been changed to “a list or an attached list” of current medications.	
W W	400.01.b	These are integral parts of any medical record why has it been removed?	The Medicaid ID number was erroneously removed but has been put back in this section. As for the Social Security information the agency can still collect that information, L&C does not require it.	
W	400.01.b	Yes PLEASE remove the social security number. Families are hesitant to give this out and I don’t like the liability.	The Medicaid ID number was erroneously removed but has been put back in this section. As for the Social Security information the agency can still collect that information, L&C does not require it.	
W	400.01.g	Is there a better system that can be used in order to keep up on current medications prescribed for participants that self-administer their medication?	Per request this section has been changed to “a list or an attached list” of current medications.	
W	400.01.h	Participant Record Requirements. Although it was discussed at the Boise Negotiated rulemaking meeting, I would recommend that including in the rule that this can be a reference to another section of the record.	Per other comments this rule has been revised to include a reference to a current history & physical.	
W W	400.01.h.	400.01.h-This rules is not specific regarding the potentially vast diagnoses participants may have. I recommend that it either be removed or be specific to developmental disabilities as reshab is a DD waiver service. This will increase the chronic deficiencies cited by IDHW as	Per other comments this rule has been revised to include a reference to a current history & physical. The rule clearly requests current medical information only.	

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		providers will suffer the impossible task of trying to include countless past and present diagnoses.		
W	400.01.h	My Thought: I feel we should just list the diagnosis's that qualify the participant for supported living services Suggestion: Add: list diagnosis's that qualify the participant for supported living services	It is necessary to address any diagnosis that affects the individual's health and safety.	
W W	400.04 History and Physical.	Define current. Physicians are not allowed to see people until 12month and 1 day after the last H&P. Technically they would not be current if 12 months was the requirements.	Current allows for the Physician to determine when the individual needs to be seen.	
W	400.04	Again, we discussed this at the Boise Negotiated rulemaking meeting. I would recommend taking this opportunity to add within rule that the history and physical may include (or be) other physician's documents such as office visits or other type of treatment visits as needed for each individual participant. I know there is a concern to define "current". This may be a good opportunity to do this as well.	Current allows for the Physician to determine when the individual needs to be seen.	
W	400.04	Define current. Is it within the year? From what date to what date?	Current allows for the Physician to determine when the individual needs to be seen.	
W	400.05 Functional Assessment	Functional Assessment. It would be good to have some type of a grace period for an initial Functional Assessment to be completed. In the ICF world we have 30 days for a new admit, to do, among other things, a Comprehensive Functional Assessment. After the initial assessment is completed it can be reviewed and revised annually prior to the new plan year but it would be difficult to do an accurate assessment of a new admit without having time to observe and assess that person in their new environment. I realize that this would delay the start of the Implementation Plan but maybe there could be some type of preliminary IP where we are assessing behaviors and implementing some generic training programs to give us baseline data and information.	Per request this section has been changed from prior to the delivery to "within 30 days". We would like to have more discussion regarding the Functional Assessment.	
W	400.05	Timeline should reflect 30 days AFTER joining program or we need to develop a code to allow us to bill for this if it	Per request this section has been changed from prior to the delivery to "within 30	

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W		will happen prior to admit. These rules fell like there has been some DDA language put into the rule. We are not DDA and should not be held to that standard. Often functional assessments do not actually have results, test scores etc. If this stays in rule, discussions need to occur about your expectations.	days”. We would like to have more discussion regarding the Functional Assessment.	
W	400.05	These sounds like a skills assessment in the DDA, those services are not the same and should not be imitated in Residential Habilitation. I recommend removal.	This functional assessment has not changed only clarified the purpose.	
W	400.05	A 30 day evaluation period to get good direct observations would be very beneficial to agencies and participants when there are new admissions as often the existing information is not adequate to do a truly thorough assessment.	Per request this section has been changed from prior to the delivery to “within 30 days”.	
W	400.05	This area needs the addition of a reasonable timeline for the assessment. 21-30 days would be reasonable	Per request this section has been changed from prior to the delivery to “within 30 days”.	
W W	400.05	See previous comments on removing DDA language from reshab. This rule mutates the functional assessment into the developmental assessment from DDA services, but without any funding. This rule adds many more requirements to the functional assessment. The functional assessment is already completed as part of the annual redetermination process by way of the SIB-R. According to 16.03.10.503.01.b, the SIB-R is the functional assessment. IDHW must not add new assessments or enhance the requirements of them without funding. The functional assessment required now that most providers complete is much simpler (but still isn’t paid for). The functional assessment used by IDHW or its designee should meet the standard of compliance or providers should be reimbursed for it as it is not “built into the rate” of reshab services. Another option if IDHW insists on increasing the requirements of the functional assessment is to add the requirements to the rate study to reflect them as cost variables in an accurate reimbursement.	This functional assessment has not changed only clarified the purpose.	
W	400.05	Would this assessment be the results of the SIB-R from	This functional assessment has not changed	

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		ICDE? Or do we have to have another one?	only clarified the purpose.	
W	400.05.a	These rules fell like there has been some DDA language put into the rule. We are not DDA and should not be held to that standard. Often functional assessments do not actually have results, test scores etc. If this stays in rule , sicussions need to occur about your expectations.	This functional assessment has not changed only clarified the purpose. Per request removed “test scores”	
W	400.06 Psychological or Psychiatric Assessment	A psychological assessment is at times simply to determine eligibility. My question would be how would this type of assessment be used to develop objectives?	In order for rule revision we would need an example of when the assessment would not be relevant for developing objectives.	
W W	400.06	This rule needs to reflect that the plan of service, including reshab goals (and often objectives), are completed prior to the provider knowing of or receiving a psychological evaluation. Reshab providers struggle intensely in trying to get the evaluations from IDHW, its designee, and evaluator. Nevertheless, this rule obliges the provider to utilize the psychological assessment when developing objectives. This will jam up the redetermination process, plan development process, and guarantee that the reshab provider is likely deficient if objectives are requested/required out of sequence in order to authorize the plan. This rule needs to reflect current Medicaid processes in managed care and plan development.	Per recommendation this section has been changed to “for the purpose of treatment”.	
W	400.06	What if the psych eval is years old? Rather than say to develop objectives, say to determine baseline assessment?	Per recommendation this section has been changed to “for the purpose of treatment”.	
W W	400.07 Program Implementatio n Plans	Again this is DDA language and we do not offer training only. We offer supports and assistance. Delete this language.	Thank you for your comment.	
W	400.07	This is an opportunity to include the time to gather baseline data into rule. I recommend this consideration be made and included in the rule.	We made this change in 400.05	
W W	400.07	Technically, objective should not be in the ISP. The rule needs to be altered to reflect “goals” only. The requirement for a baseline should allow a 14 day baseline period from the initiation of ongoing services as DDA if going to mirror DDA requirements.	We made this change in 400.05	

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W	400.11	Data-based progress notes. Define frequency?	Unable answer this question? We would like to discuss this further.	
W W	400.11	“Progress notes” must not be assumed to be narrative in format. This reference should be altered to “Means to ascertain progress” or other language that reflects the ability of the provider to use data and other documentation to demonstrate progress than redundantly developing narratives.	Thank you for your comment, we will review this.	
W	400.12 Status Review	Change revisions are made “when” to “for” progress, regression...	Thank you for your comment. Changes made.	
W W	400.12	The definition of the provider status review does not match the definition of 16.03.10.508.15. Adding other requirements to the same process promulgated in different rules is unreasonable. Requirements must match. This rules adds significantly more obligations on how to complete and file/attach status reviews that required in other rules. This is highly problematic.	We have taken out the word “Provider” and now ties to the professional’s responsibility. We have also removed the Medicaid verbiage as it does not cross payer sources.	
W	400.12	We currently tally data, input on PSR and adjust PIPs monthly when needed, but when reading regs it comes across that agencies only have to really complete at 6 month and annual. Maybe put quarterly so agencies keep up with adjusting programs to meet participant need? When inputting monthly data into PSR...that is where the trend and need really becomes evident. States quarterly on page 12, under professional responsibilities.	We have taken out the word “Provider” and now ties to the professional’s responsibility. We have also removed the Medicaid verbiage as it does not cross payer sources.	
W	400.12	Provider Status Review. Residential Habilitation agencies must review participant progress to ensure revisions are made when progress, regression, or inability to maintain independence. The review of progress must be documented on a provider status review. Semiannual status reviews must remain in participant file and annual status reviews must be attached to annual plan of service. (3-20-04) A plan is submitted 45 days before the end of an annual plan year. Therefore it would be impossible to submit a full 12 month PSR with an annual plan. Unless it was the plan	We have taken out the word “Provider” and now ties to the professional’s responsibility. We have also removed the Medicaid verbiage as it does not cross payersources.	

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		<p>for the previous plan year which would have very little relevance to an upcoming plan.</p> <p>This rule would be better suited to have the 6 month review attached to the plan submission and the annual review continue to be submitted to the TSC 30 days after the plan year end. At this time the TSC may then submit it to the care manager as a follow up procedure.</p> <p>Alternatively a 9 month review could be created but this would leave a lot of room for change in the actual status of progress.</p>		
W	400.12	<p>My Thought: This corresponds with 010.19 pg3. Just maintaining skills for some of our participants is a huge accomplishment. Add: the maintain/retain skills that don't have to make progress</p> <p>Suggestion:</p>	<p>We have taken out the word "Provider" and now ties to the professional's responsibility. We have also removed the Medicaid verbiage as it does not cross payer sources.</p>	
W	400.13 Termination Procedures.	<p>There needs to be clarification on the case of hospitalization where a participant is discharged from the agency to the hospital for either medical or behavior concerns. There should be some provision for the agency to not re admit if doing so would in their estimation pose a significant risk to that individual. It is their home so obviously they could return but the agency should not be required to provide services if they do not believe they can keep the person safe.</p>	<p>There is no requirement that the agency must continue to serve the individual, but your agency would be required to give a written notice. Also, the individual would be able to return to his/her own home and seek another agency.</p> <p>We would like to discuss termination procedures more.</p>	
W	400.13	<p>There should be language that allows agencies to terminate or agreed upon termination that expands beyond simply the "participant no longer benefitting from services"...in some cases, termination is not about benefit to client, but community-safety; staff-safety; and, participant safety. There are a number of other reasons termination may occur. Additionally, agencies should not be held hostage to a 30 day timeline. The rule doesn't hold participants to a 30 day notice and termination standard; and, there should be some equality in regard to rights, responsibilities and termination standards.</p>	<p>Per recommendation this section has been changed to address "emergency conditions exist". Ethical standards should be considered when terminating services.</p> <p>We would like to discuss termination procedures more.</p>	

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W W	400.13	This rule recklessly obligates the provider to attempt to serve a participant when immediate termination is necessary for the participant, to preserve the well-being of other participants, and is in the best interest of the provider. In this rule, IDHW marries the provider to potentially toxic liability without any recourse if the participant doesn't agree to it or someone (unidentified) determines that to do would pose a threat to the participant or others. The provider alone is liable, despite IDHW's regulations to endure. In all honesty, the provider must be able to have the discretion to terminate services immediately if the participant has the same discretion, even if doing so would jeopardize the participant. Of course, if IDHW intends to vilify providers for the maladaptive/dangerous decisions/behavior of participants, restricting the strategic decisions of the provider is necessary. Accordingly, there seems to be an even greater diminishing needs for service coordinators if they are not able to link the participant to another provider to meet the needs, even immediately.	Per recommendation this section has been changed to address "emergency conditions exist". Ethical standards should be considered when terminating services. We would like to discuss termination procedures more.	
W	403. Participant Finances	Participant Finances. SUBMITTER would like to recognize the Department for the inclusion of these rules for residential habilitation agencies. SUBMITTER strongly recommends training to support staff to facilitate the understanding of supporting individuals to experience learned consequences by having personal control over their resources. The current culture may need assistance in understanding how to implement strategies to transition from controlling resources of individuals in order to protect people from potential mistakes to a planned approach for learning how to responsibly spend money. It has been the experience of SUBMITTER that often times staff needs assistance in order to problem solve some of the situations that arise with regard to individuals having control of their own finances.	Thank you for your comment this section clarifies a requirement for a Payee. The required services/skill development is intended to teach the individual how to manage his/her money.	
W	403	This section needs clarity to include the fact that participants may have "spending money" for recreation and incidentals for which receipts are not required, and that	403.01.c. addresses document any financial transactions. As you stated the participant has spending money. This would be	

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		should a client be given funds from the account for a particular purpose and choose to spend it on something else the agency is not accountable for the client's decision. – That is not to say that the money ought not to be accounted for, but that it could be accounted as “allowance” or “spending money” or “funds for shoes.”	something that would be documented as spending money.	
W	403	Currently we have a collective checking account just for participants at a different bank than our agency uses. SSI gave this as an option when becoming a rep payee. I use a separate QuickBooks account for the participants to document all transactions. The amount of time would more than triple if they had to be separate accounts. For example... If I pay an electric bill, I can write one check and split it three ways, but each person's balance only reduces by the third. If this were to change, I would have to split the bill into thirds and then write three separate checks. If we are required to change to separate accounts, I would probably no longer offer rep payee, as that would become a full time job and I currently don't charge the clients any fee.	Per recommendation “Establish a separate individual account at a financial institution for each participant” has been removed.	
W	403.	Social security has its own set of guidelines and oversees payee services for participants that receive them. If the department decides to keep this section in, 403.01.a social security allows a collective account where all participant funds are received and managed separately through accounting. 403.01.e social security gives payee the right to refuse access to funds if basic need (rent, food, utilities) are not first.	Per recommendation “Establish a separate individual account at a financial institution for each participant” has been removed.	
W	403	If we are Representative Payees the department should NOT be auditing our records that fall under Federal oversight. If not Representative Payee (see attached policy for ideas). Social Security has requirements as to how funds are to be handled if the agency is the payee. Change above to something like. The agency will adhere to all requirements of the Social Security Administration when acting as representative payee. This section then is no longer required.	Per recommendation “Establish a separate individual account at a financial institution for each participant” has been removed.	

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W	403	There are many things which could require comment or recommended. However, I strongly recommend that this be removed from rule since it is already addressed by the Social Security Administration.	Per recommendation “Establish a separate individual account at a financial institution for each participant” has been removed.	
W	403	This reads only as what the agency’s responsibility as a rep payee is. This section does not appear to address rent subsidization, whether or not the agency is rep payee, but it is a concerning issue with participant finances. I think some providers would see a loophole in that they are utilizing their agency funds to secure a placement for the participant, which does not fall under comingling. This then makes the participant indebted to the provider. I have attached a letter from 2006 that was used previously.	Thank you for your comment.	
W W	403	This entire segment greatly expands the purview of IDHW unnecessarily. These rules should simply indicate that the participant’s finances need to be accounted for in accordance with Social Security requirement.	Per recommendation “Establish a separate individual account at a financial institution for each participant” has been removed.	
W	403	Under the rule for payee services, I request that it states to follow all Social security rules and guidelines.	Per recommendation “Establish a separate individual account at a financial institution for each participant” has been removed.	
W W	403	Social Security has requirements as to how funds are to be handled if the agency is the payee. Change above to something like. The agency will adhere to all requirements of the Social Security Administration when acting as representative payee. This section then is no longer required.	Per recommendation “Establish a separate individual account at a financial institution for each participant” has been removed.	
W	403.01.a-e	Major concerns with this rule change proposal. The most significant being the need to produce receipts. In part, agencies employees may never have access to receipts of items participants purchase as those items may be purchased on alone-time, outside of agency supervision or services, while with natural supports, etc. – and, at times, when participants won’t provide the receipt (their property) to an agency.	Per recommendation “including receipts for purchases made using the participant's personal funds.” Has been removed.	
W	403.01.a	In the case that an agency is not a rep payee and only handles small amounts of money at the direction of the participant or their payee establishing accounts would be	This section of rule pertains to Rep Payees only.	

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		very time consuming.		
W	403.01.b	Describe how you want this done.	Per recommendation this section has been removed.	
W W	404.01 Reciprocal Communication	Reciprocal Communication. What kind of documentation will this require. Remember for every document we must create, we cannot be on the floor observing client interactions or it will require additional professional staff.	This rule clarifies that the efforts to communicate have been documented.	
W W	404.01	This rule does not make sense with .404 that states the agency must develop policies and procedures for documenting reporting and other communications. However, this rule says the provider must just promote communication. So, it appears that the agency must document its promotion of communication, technically. The language needs to be clarified so it makes logical and operational sense.	Per recommendation “Promote” has been removed.	
W	404.01	What kind of documentation will this require?	This rule clarifies that the efforts to communicate have been documented.	
W W	404.03 Reporting Requirements.	Define what you mean by injuries of unknown origin. Allegations from who? Do we have any latitude, as many of the folks we serve will make allegations about others even when they have not been around that particular person. I did a range exercise for Idaho Fish and Game and pinched my arm in a fence yesterday. Today I have a large bruise on my arm. I think it is from the fence but I can’t be sure. Reporting such incidents could result in frustration from agencies such as Adult Protection and the Police as they have real issues to address. By the very nature of the people we serve, we will have bumps and bruises that can be correlated to a trip or fall but cannot definitely be attributed to yesterday’s activities. This sounds like an ICF/MR term. Suggest removing from rule.	This was moved from 405.04. Remove the Ombudsman wording from rule as they typically serve individuals in a facility.	
W	404.03	“injuries of unknown origin” I recommend that this be changed or in some way defined as “suspicious” everyone gets unknown injuries or bruises – to report these can be excessive, time consuming, costly and ridiculous. I further recommend discussing options with IACP as well as other providers/advocates to determine what skills training would	This was moved from 405.04. Remove the Ombudsman wording from rule as they typically serve individuals in a facility.	

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		encompass, how it would be completed as address other components connected with this topic.		
W W	404.03	Define “injuries of unknown origin”. Does this mean a bruise that we are not sure how they got? Reporting Requirements “...injuries of unknown origin...” We need to define seriousness as there are lots of bumps and bruises that are not very serious that are of unknown origin.	This was moved from 405.04. Remove the Ombudsman wording from rule as they typically serve individuals in a facility.	
W W	404.03	Please define “immediately” in the rule set. Immediate reports are impossible within an organization when policies include an internal reporting party that needs time to be process the information and submit. My Thought: There is no way, in the midst of emergencies happening with the participant, that we have time to report immediately to state protection and the advocacy system. And sometimes it is in the middle of the night, weekends, etc. Sometimes we need to do our own investigation so we know the facts. By law I believe it is 24 hours Suggestion: Insert: 24 hours, take out immediately	Per recommendation removed “immediately” and “under Section 39-5302, Idaho Code”	
W W	404.06 Providing Evidence of Violation.	We can provide evidence of internal investigations however once we turn them over to Adult Protection, we get no results of their investigation.	Thank you for your comment. Your report is sufficient for these rules.	
W W	404.06	This rule apparently requires the provider to investigate and provide evidence of its investigation, but disregards the reality that the provider staff are not trained investigators. The rule also does not consider that legal authorities may be investigating and a provider’s investigation may tarnish theirs. This rule provides no structure, guidelines, or time frames for providing evidence of it unqualified investigation. While well-intentioned, this rule disregards the provider limited expertise in investigating violations. It needs to be retooled to consider the professional investigations that may be underway and provide more structure of the expectation.	Per recommendation added “or reported for external investigation”	
W		We can provide evidence of internal investigations however	Per recommendation added “or reported for	

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		once we turn them over to Adult Protection, we get no results of their investigation. Shouldn't it go both ways?	external investigation”	
W W W	404.07 Reporting Results of Investigations	Define what corrective actions would be acceptable.	This is not a new rule moved from 405.06	
W W	404.07	See comments in .404.06. No state law is identified. The rule indicates that corrective action is required if the violation is verified, but does not indicate what entity is qualified to verify the violation.	This is not a new rule moved from 405.06	
W	405. Quality Assurance	As the Department works to implement and improve strategies for effective quality assurance methods, SUBMITTER strongly recommends that the Department consider providing best practice education for residential habilitation agency staff. All too often, agencies are expected to interpret the rules and develop their own training to address the various aspects of direct support training. SUBMITTER sees the investment in best practice training provided by the Department as one strategy that would improve quality assurance within this service and more importantly improved outcomes for the individuals supported.	Thank you for your comment.	
W	405	There is a need for defining terms as well as processes within this section. Examples – Environment – How is this defined, and how is the provider responsible for the environment the person lives? Also, the quarterly review in section g. should be adjusted to include supervisory personnel.	Per recommendation changes have been made to section 405.	
W W	405	See previous comments on removing all DDA filler language from reshab.	Per recommendation changes have been made to section 405.	
W W	405.01	Define ongoing and proactive	Per recommendation changes have been made to section 405.	
W W W	405.01.a	Define high quality.	Per recommendation changes have been made to section 405.	

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W = Written Comment Submitted	Rule (16.04.17.-)	Comments	Responses	Policy Change
W W	405.01.b	Meets the needs of each person served as defined by whom. What is the measurable objective here?	Per recommendation changes have been made to section 405.	
W W	405.01.b	The agency is not responsible to provide the participants in their own homes material resources to render the prioritized needs. For example, if they have tooth brushing objective, the agency is not required to purchase a toothbrush or toothpaste and shouldn't be required to do so either.	Per recommendation changes have been made to section 405.	
W	405.01.b	Meets the needs of each person served as defined by whom. What is the measurable objective here?	Per recommendation changes have been made to section 405.	
W W	405.01.c	This appears to be out of DDA regulations. The person's home is where most training occurs. It is their home, we have control of that environment.	Per recommendation changes have been made to section 405.	
W W	405.01.c	405.01.c-The agency has no control over the environment where the participant resides, lives, or patronizes. There is no possible way for the provider realistically ensure they are conducive to learning without infringing on the rights of the participants.	Per recommendation changes have been made to section 405.	
W	405.01.c	This appears to be out of DDA regulations. The person's home is where most training occurs. It is their home, we have control of that environment.	Per recommendation changes have been made to section 405.	
W	405.01.e	In the case that a person is determined unable to make informed choices: Please considering adding that a statement by the treatment team could release the agency from the need to provide opportunities and training for the participant to make informed choices.	Per recommendation changes have been made to section 405.	
W W	405.02 Quality Assurance Program Components	The quality assurance requirements must match elements of the provider agreement. It should not be assumed that a DDA QA program will translate into reshaping without causing disruption to the choices of the participants. I recommend customizing this to reshaping more.	Per recommendation changes have been made to section 405.	
W; W	405.02.d	The agency cannot force the participant to provide satisfaction information. This rule, however, compels the provider to do so. Brace for complaints and deficiencies as participants actively refuse, unfortunately at the expense of the provider.	Per recommendation changes have been made to section 405.	
W	405.02.e	While I see and support the need for a code of ethics /	Per recommendation changes have been	

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		standards of conduct for each agency, I do not see the need for the Department to review the plan of correction. That is a personnel issue between the employee and the employer and does not appear to be an appropriate role for the Department.	made to section 405.	
W	405.02.f	I understand the need for revision of the agency's policy and procedure manual and even a sign-off by the administrator, even though in our agency, the approval comes from the Board of Directors. I do not understand the need for content revisions to be specified in the document. This is a corporation function does not appear to be an appropriate role for the Department.	Per recommendation changes have been made to section 405.	
W W	405.02.g	AGAIN, Great idea but would require additional professional staff or the ability to use para professionals. If you want professionals, then we need to build this into the rate study. Again it would require us to identify a client to professional ratio industry wide.	Per recommendation changes have been made to section 405.	
W W	405.02.g	405.02.g-This rule has many complications with respect to time frames required of the administrator and professional previously delineated in other draft rules. I recommend removing the face to face requirement as there are countless other ways to verify the condition of the participant. This rigidly obliges the professional to navigate the far rural corners of the region. There must be consideration given to the rural character of the state and the challenging logistics of professional travel to participants' homes. This cost is not "built into the rate" and may be of little concern to IDHW, but is real and will strain professionals tremendously challenging schedules. It will add to significant professional turnover. I recommend allowing innovation by professional to verify the condition, add the travel into the current rate study, or remove the rule entirely. This rules as a dual function to the face to face requirement to document the participant's condition and also observe the services provided. This is unclear as to whether it means the professional must observe each staff or simply be in the home face to face. The requirements	Per recommendation changes have been made to section 405.	

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		need to be clarified if they remain.		
W	405.02.g	This would require additional professional staff or the ability to use para professionals. If you want professionals, then we need to build this into the rate study. Again it would require us to identify a client to professional ratio industry wide.	Per recommendation changes have been made to section 405.	
W	405.03.a-f	Additional Requirements. Again this is going to be a difficult goal to achieve when you weigh health and safety versus individual rights.	Per recommendation changes have been made to section 405.	
W W	405.03.f	405.03.f-This is rule is horrible in DDA and will be significantly worse in reshab as active skills building is not required in reshab. This rule, though, will require observable skills building/services 24 hours per day. Compliance with the rule is completely reliant on the subjective opinion of the review which has proven to be highly problematic, disagreeable, and confusing in DDAs for years. I officially dislike this rule immensely.	Per recommendation changes have been made to section 405.	
W	405.03.f	405.03.f-Active skill building would be difficult to complete 24 hours a day, 7 days a week. It would infringe on their rights and choices of daily living.	Per recommendation changes have been made to section 405.	
W W	405.03.f	This is going to be a difficult goal to achieve when you weigh health and safety versus individual rights.	Per recommendation changes have been made to section 405.	
W	New Rule Suggestion	Living environments. There needs to be something about living environments. We have seen some filthy, run down living conditions when visiting or picking up new participants. (filthy floors, holes in the walls, smell of urine/feces, stained/urine soaked furniture, lack of safety equipment, urine soaked clothes/bedding where you can't even distinguish between clean and dirty)	Thank you for the recommendation. This service is intended to be provided in the participant's own home. Although, if the conditions are those that affect the individual's Health & Safety this would need to be reported to Adult Protective Services.	
W	New Rule Suggestion	I also think that there needs to be a rule added for if agencies that are shut down immediately for whatever reason. If agencies are given notice that they are no longer allowed to bill or if there is a significant safety issue where the department has to come in and take over protections for the clients need to be there. There are a lot of ethical considerations here. I have seen this happen once already where a new ResHab agency was shut down for fraud and	Thank you for the recommendation. This is addressed under Enforcement Remedies section 501.02.f.	

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		the clients had to be immediate returned to family (luckily they had family to return to).		
W	New Rule Suggestion	SUBMITTER has great concern regarding choice of roommate within the residential settings residential habilitation services are being provided. Individuals report not having a choice of roommates within this setting. Individuals also report meeting roommates of the supported living residence on the day of their move. SUBMITTER recommends supporting the practice of individuals having the ability and support to interview potential roommates. It appears that most participants have little to no control over their place of residence and choice of roommates. Individuals do not appear to know their rights, know they have the ability to say “no” to an option presented, or additional options available to them.	Thank you for your recommendation. We have clarified our scope and definition to identify that residence is separate from services.	